

Union Calendar No. 210

105TH CONGRESS
1ST Session

H. R. 2676

[Report No. 105-364, Part I]

A BILL

To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

OCTOBER 31, 1997

Reported from the Committee on Ways and Means with an amendment

OCTOBER 31, 1997

Referral to the Committees on Government Reform and Oversight and Rules extended for a period ending not later than October 31, 1997

OCTOBER 31, 1997

The Committees on Government Reform and Oversight and Rules discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1997

Mr. ARCHER (for himself, Mr. PORTMAN, and Mr. CARDIN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Government Reform and Oversight, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 31, 1997

Additional sponsors: Mr. BLILEY, Mr. SHERMAN, Mr. HILL, Mr. PRICE of North Carolina, Mr. GREEN, Mr. COOK, Mr. CANNON, Mr. SALMON, Mr. BALDACCI, Mr. GOODLING, Mr. ETHERIDGE, Mr. GILCHREST, Mr. ADAM SMITH of Washington, Mr. CALVERT, Mr. RIGGS, Mr. BENTSEN, Mr. LOBIONDO, Mr. BARR of Georgia, Mr. TALENT, Mr. JOHN, Ms. HARMAN, Mr. SAXTON, Ms. RIVERS, Mr. HALL of Texas, Mr. ROYCE, Mr. FROST, Mrs. LINDA SMITH of Washington, Mr. BOSWELL, Mr. THUNE, Ms. HOOLEY of Oregon, Mrs. CHENOWETH, Mr. SPRATT, Mr. EWING, Mr. CLEMENT, Mr. NEY, Ms. ESHOO, Mr. ROTHMAN, Mr. KASICH, Mr. CANADY of Florida, Mr. SOLOMON, and Mr. ADERHOLT

OCTOBER 31, 1997

Reported from the Committee on Ways and Means with an amendment
[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 31, 1997

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Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on October 21, 1997]

A BILL

To amend the Internal Revenue Code of 1986 to restructure
and reform the Internal Revenue Service, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) *SHORT TITLE.—This Act may be cited as the “In-*
6 *ternal Revenue Service Restructuring and Reform Act of*
7 *1997”.*

8 (b) *AMENDMENT OF 1986 CODE.—Except as otherwise*
9 *expressly provided, whenever in this Act an amendment or*
10 *repeal is expressed in terms of an amendment to, or repeal*
11 *of, a section or other provision, the reference shall be consid-*
12 *ered to be made to a section or other provision of the Inter-*
13 *nal Revenue Code of 1986.*

14 (c) *TABLE OF CONTENTS.—*

Sec. 1. Short title; amendment of 1986 Code; table of contents.

*TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR
MANAGEMENT OF THE INTERNAL REVENUE SERVICE*

Subtitle A—Executive Branch Governance and Senior Management

- Sec. 101. Internal Revenue Service Oversight Board.*
Sec. 102. Commissioner of Internal Revenue; other officials.
Sec. 103. Other personnel.
Sec. 104. Prohibition on executive branch influence over taxpayer audits and other investigations.

Subtitle B—Personnel Flexibilities

- Sec. 111. Personnel flexibilities.*

TITLE II—ELECTRONIC FILING

- Sec. 201. Electronic filing of tax and information returns.*
Sec. 202. Due date for certain information returns filed electronically.
Sec. 203. Paperless electronic filing.
Sec. 204. Return-free tax system.
Sec. 205. Access to account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

- Sec. 300. Short title.*

Subtitle A—Burden of Proof

- Sec. 301. Burden of proof.*

Subtitle B—Proceedings by Taxpayers

- Sec. 311. Expansion of authority to award costs and certain fees.*
Sec. 312. Civil damages for negligence in collection actions.
Sec. 313. Increase in size of cases permitted on small case calendar.

*Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage
Their Financial Affairs Due to Disabilities*

- Sec. 321. Spouse relieved in whole or in part of liability in certain cases.*
Sec. 322. Suspension of statute of limitations on filing refund claims during periods of disability.

Subtitle D—Provisions Relating to Interest

- Sec. 331. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.*
Sec. 332. Increase in overpayment rate payable to taxpayers other than corporations.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

- Sec. 341. Privilege of confidentiality extended to taxpayer's dealings with non-attorneys authorized to practice before Internal Revenue Service.*
Sec. 342. Expansion of authority to issue taxpayer assistance orders.
Sec. 343. Limitation on financial status audit techniques.
Sec. 344. Limitation on authority to require production of computer source code.
Sec. 345. Procedures relating to extensions of statute of limitations by agreement.

Sec. 346. Offers-in-compromise.

Sec. 347. Notice of deficiency to specify deadlines for filing Tax Court petition.

Sec. 348. Refund or credit of overpayments before final determination.

Sec. 349. Threat of audit prohibited to coerce Tip Reporting Alternative Commitment Agreements.

Subtitle F—Disclosures to Taxpayers

Sec. 351. Explanation of joint and several liability.

Sec. 352. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.

Sec. 353. Disclosure of criteria for examination selection.

Sec. 354. Explanations of appeals and collection process.

Subtitle G—Low Income Taxpayer Clinics

Sec. 361. Low income taxpayer clinics.

Subtitle H—Other Matters

Sec. 371. Actions for refund with respect to certain estates which have elected the installment method of payment.

Sec. 372. Cataloging complaints.

Sec. 373. Archive of records of Internal Revenue Service.

Sec. 374. Payment of taxes.

Sec. 375. Clarification of authority of Secretary relating to the making of elections.

Sec. 376. Limitation on penalty on individual's failure to pay for months during period of installment agreement.

Subtitle I—Studies

Sec. 381. Penalty administration.

Sec. 382. Confidentiality of tax return information.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Subtitle A—Oversight

Sec. 401. Expansion of duties of the Joint Committee on Taxation.

Sec. 402. Coordinated oversight reports.

Subtitle B—Budget

Sec. 411. Funding for century date change.

Sec. 412. Financial Management Advisory Group.

Subtitle C—Tax Law Complexity

Sec. 421. Role of the Internal Revenue Service.

Sec. 422. Tax complexity analysis.

TITLE V—CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION

Sec. 501. Clarification of deduction for deferred compensation.

1 ***TITLE I—EXECUTIVE BRANCH***
 2 ***GOVERNANCE AND SENIOR***
 3 ***MANAGEMENT OF THE INTER-***
 4 ***NAL REVENUE SERVICE***

5 ***Subtitle A—Executive Branch Gov-***
 6 ***ernance and Senior Manage-***
 7 ***ment***

8 ***SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.***

9 *(a) IN GENERAL.—Section 7802 (relating to the Com-*
 10 *missioner of Internal Revenue) is amended to read as fol-*
 11 *lows:*

12 ***“SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT***
 13 ***BOARD.***

14 *“(a) ESTABLISHMENT.—There is established within*
 15 *the Department of the Treasury the Internal Revenue Serv-*
 16 *ice Oversight Board (hereafter in this subchapter referred*
 17 *to as the ‘Oversight Board’).*

18 *“(b) MEMBERSHIP.—*

19 *“(1) COMPOSITION.—The Oversight Board shall*
 20 *be composed of 11 members, as follows:*

21 *“(A) 8 members shall be individuals who*
 22 *are not Federal officers or employees and who*
 23 *are appointed by the President, by and with the*
 24 *advice and consent of the Senate.*

1 “(B) 1 member shall be the Secretary of the
2 Treasury or, if the Secretary so designates, the
3 Deputy Secretary of the Treasury.

4 “(C) 1 member shall be the Commissioner of
5 Internal Revenue.

6 “(D) 1 member shall be an individual who
7 is a representative of an organization that rep-
8 resents a substantial number of Internal Revenue
9 Service employees and who is appointed by the
10 President, by and with the advice and consent of
11 the Senate.

12 “(2) QUALIFICATIONS AND TERMS.—

13 “(A) QUALIFICATIONS.—Members of the
14 Oversight Board described in paragraph (1)(A)
15 shall be appointed solely on the basis of their
16 professional experience and expertise in 1 or
17 more of the following areas:

18 “(i) Management of large service orga-
19 nizations.

20 “(ii) Customer service.

21 “(iii) Federal tax laws, including tax
22 administration and compliance.

23 “(iv) Information technology.

24 “(v) Organization development.

1 “(vi) *The needs and concerns of tax-*
2 *payers.*

3 *In the aggregate, the members of the Oversight*
4 *Board described in paragraph (1)(A) should col-*
5 *lectively bring to bear expertise in all of the*
6 *areas described in the preceding sentence.*

7 “(B) *TERMS.—Each member who is de-*
8 *scribed in paragraph (1)(A) or (D) shall be ap-*
9 *pointed for a term of 5 years, except that of the*
10 *members first appointed under paragraph*
11 *(1)(A)—*

12 “(i) *1 member shall be appointed for a*
13 *term of 1 year,*

14 “(ii) *1 member shall be appointed for*
15 *a term of 2 years,*

16 “(iii) *2 members shall be appointed for*
17 *a term of 3 years, and*

18 “(iv) *2 members shall be appointed for*
19 *a term of 4 years.*

20 *Such terms shall begin on the date of appoint-*
21 *ment.*

22 “(C) *REAPPOINTMENT.—An individual who*
23 *is described in paragraph (1)(A) may be ap-*
24 *pointed to no more than two 5-year terms on the*
25 *Oversight Board.*

1 “(D) *VACANCY.*—Any vacancy on the Over-
2 sight Board shall be filled in the same manner
3 as the original appointment. Any member ap-
4 pointed to fill a vacancy occurring before the ex-
5 piration of the term for which the member’s
6 predecessor was appointed shall be appointed for
7 the remainder of that term.

8 “(E) *SPECIAL GOVERNMENT EMPLOYEES.*—
9 During the entire period that an individual ap-
10 pointed under paragraph (1)(A) is a member of
11 the Oversight Board, such individual shall be
12 treated as—

13 “(i) serving as a special government
14 employee (as defined in section 202 of title
15 18, United States Code) and as described in
16 section 207(c)(2) of such title 18, and

17 “(ii) serving as an officer or employee
18 referred to in section 101(f) of the Ethics in
19 Government Act of 1978 for purposes of title
20 I of such Act.

21 “(3) *QUORUM.*—6 members of the Oversight
22 Board shall constitute a quorum. A majority of mem-
23 bers present and voting shall be required for the Over-
24 sight Board to take action.

25 “(4) *REMOVAL.*—

1 “(A) *IN GENERAL.*—Any member of the
2 *Oversight Board* may be removed at the will of
3 the President.

4 “(B) *SECRETARY AND COMMISSIONER.*—An
5 individual described in subparagraph (B) or (C)
6 of paragraph (1) shall be removed upon termi-
7 nation of employment.

8 “(C) *REPRESENTATIVE OF INTERNAL REVE-*
9 *NUE SERVICE EMPLOYEES.*—The member de-
10 scribed in paragraph (1)(D) shall be removed
11 upon termination of employment, membership,
12 or other affiliation with the organization de-
13 scribed in such paragraph.

14 “(5) *CLAIMS.*—

15 “(A) *IN GENERAL.*—Members of the Over-
16 sight Board who are described in paragraph
17 (1)(A) or (D) shall have no personal liability
18 under Federal law with respect to any claim
19 arising out of or resulting from an act or omis-
20 sion by such member within the scope of service
21 as a member. The preceding sentence shall not be
22 construed to limit personal liability for criminal
23 acts or omissions, willful or malicious conduct,
24 acts or omissions for private gain, or any other

1 *act or omission outside the scope of the service of*
 2 *such member on the Oversight Board.*

3 “(B) *EFFECT ON OTHER LAW.*—*This para-*
 4 *graph shall not be construed—*

5 “(i) *to affect any other immunities and*
 6 *protections that may be available to such*
 7 *member under applicable law with respect*
 8 *to such transactions,*

9 “(ii) *to affect any other right or rem-*
 10 *edy against the United States under appli-*
 11 *cable law, or*

12 “(iii) *to limit or alter in any way the*
 13 *immunities that are available under appli-*
 14 *cable law for Federal officers and employees.*

15 “(c) *GENERAL RESPONSIBILITIES.*—

16 “(1) *IN GENERAL.*—*The Oversight Board shall*
 17 *oversee the Internal Revenue Service in its adminis-*
 18 *tration, management, conduct, direction, and super-*
 19 *vision of the execution and application of the internal*
 20 *revenue laws or related statutes and tax conventions*
 21 *to which the United States is a party.*

22 “(2) *EXCEPTIONS.*—*The Oversight Board shall*
 23 *have no responsibilities or authority with respect to—*

24 “(A) *the development and formulation of*
 25 *Federal tax policy relating to existing or pro-*

1 *posed internal revenue laws, related statutes, and*
2 *tax conventions,*

3 *“(B) law enforcement activities of the Inter-*
4 *nal Revenue Service, including compliance ac-*
5 *tivities such as criminal investigations, exami-*
6 *nations, and collection activities, or*

7 *“(C) specific procurement activities of the*
8 *Internal Revenue Service.*

9 *“(3) RESTRICTION ON DISCLOSURE OF RETURN*
10 *INFORMATION TO OVERSIGHT BOARD MEMBERS.—No*
11 *return, return information, or taxpayer return infor-*
12 *mation (as defined in section 6103(b)) may be dis-*
13 *closed to any member of the Oversight Board de-*
14 *scribed in subsection (b)(1)(A) or (D). Any request for*
15 *information not permitted to be disclosed under the*
16 *preceding sentence, and any contact relating to a spe-*
17 *cific taxpayer, made by a member of the Oversight*
18 *Board so described to an officer or employee of the In-*
19 *ternal Revenue Service shall be reported by such offi-*
20 *cer or employee to the Secretary and the Joint Com-*
21 *mittee on Taxation.*

22 *“(d) SPECIFIC RESPONSIBILITIES.—The Oversight*
23 *Board shall have the following specific responsibilities:*

1 “(1) *STRATEGIC PLANS.*—*To review and approve*
2 *strategic plans of the Internal Revenue Service, in-*
3 *cluding the establishment of—*

4 “(A) *mission and objectives, and standards*
5 *of performance relative to either, and*

6 “(B) *annual and long-range strategic plans.*

7 “(2) *OPERATIONAL PLANS.*—*To review the oper-*
8 *ational functions of the Internal Revenue Service, in-*
9 *cluding—*

10 “(A) *plans for modernization of the tax sys-*
11 *tem,*

12 “(B) *plans for outsourcing or managed*
13 *competition, and*

14 “(C) *plans for training and education.*

15 “(3) *MANAGEMENT.*—*To—*

16 “(A) *recommend to the President candidates*
17 *for appointment as the Commissioner of Internal*
18 *Revenue and recommend to the President the re-*
19 *moval of the Commissioner,*

20 “(B) *review the Commissioner’s selection,*
21 *evaluation, and compensation of senior man-*
22 *agers, and*

23 “(C) *review and approve the Commis-*
24 *sioner’s plans for any major reorganization of*
25 *the Internal Revenue Service.*

1 “(4) *BUDGET.—To—*

2 “(A) *review and approve the budget request*
3 *of the Internal Revenue Service prepared by the*
4 *Commissioner,*

5 “(B) *submit such budget request to the Sec-*
6 *retary of the Treasury, and*

7 “(C) *ensure that the budget request supports*
8 *the annual and long-range strategic plans.*

9 *The Secretary shall submit the budget request referred to*
10 *in paragraph (4)(B) for any fiscal year to the President*
11 *who shall submit such request, without revision, to Congress*
12 *together with the President’s annual budget request for the*
13 *Internal Revenue Service for such fiscal year.*

14 “(e) *BOARD PERSONNEL MATTERS.—*

15 “(1) *COMPENSATION OF MEMBERS.—*

16 “(A) *IN GENERAL.—Each member of the*
17 *Oversight Board who is described in subsection*
18 *(b)(1)(A) shall be compensated at a rate of*
19 *\$30,000 per year. All other members of the Over-*
20 *sight Board shall serve without compensation for*
21 *such service.*

22 “(B) *CHAIRPERSON.—In lieu of the amount*
23 *specified in subparagraph (A), the Chairperson*
24 *of the Oversight Board shall be compensated at*
25 *a rate of \$50,000.*

1 “(2) *TRAVEL EXPENSES.*—*The members of the*
2 *Oversight Board shall be allowed travel expenses, in-*
3 *cluding per diem in lieu of subsistence, at rates au-*
4 *thorized for employees of agencies under subchapter I*
5 *of chapter 57 of title 5, United States Code, while*
6 *away from their homes or regular places of business*
7 *for purposes of attending meetings of the Oversight*
8 *Board.*

9 “(3) *STAFF.*—*At the request of the Chairperson*
10 *of the Oversight Board, the Commissioner shall detail*
11 *to the Oversight Board such personnel as may be nec-*
12 *essary to enable the Oversight Board to perform its*
13 *duties. Such detail shall be without interruption or*
14 *loss of civil service status or privilege.*

15 “(4) *PROCUREMENT OF TEMPORARY AND INTER-*
16 *MITTENT SERVICES.*—*The Chairperson of the Over-*
17 *sight Board may procure temporary and intermittent*
18 *services under section 3109(b) of title 5, United States*
19 *Code.*

20 “(f) *ADMINISTRATIVE MATTERS.*—

21 “(1) *CHAIR.*—*The members of the Oversight*
22 *Board shall elect for a 2-year term a chairperson*
23 *from among the members appointed under subsection*
24 *(b)(1)(A).*

1 “(2) *COMMITTEES.*—*The Oversight Board may*
 2 *establish such committees as the Oversight Board de-*
 3 *termines appropriate.*

4 “(3) *MEETINGS.*—*The Oversight Board shall*
 5 *meet at least once each month and at such other times*
 6 *as the Oversight Board determines appropriate.*

7 “(4) *REPORTS.*—*The Oversight Board shall each*
 8 *year report to the President and the Congress with re-*
 9 *spect to the conduct of its responsibilities under this*
 10 *title.”.*

11 **(b) CONFORMING AMENDMENTS.—**

12 (1) *Section 4946(c) (relating to definitions and*
 13 *special rules for chapter 42) is amended—*

14 (A) *by striking “or” at the end of para-*
 15 *graph (5),*

16 (B) *by striking the period at the end of*
 17 *paragraph (6) and inserting “, or”, and*

18 (C) *by adding at the end the following new*
 19 *paragraph:*

20 “(7) *a member of the Internal Revenue Service*
 21 *Oversight Board.”.*

22 (2) *The table of sections for subchapter A of*
 23 *chapter 80 is amended by striking the item relating*
 24 *to section 7802 and inserting the following new item:*

 “*Sec. 7802. Internal Revenue Service Oversight Board.*”

25 **(c) EFFECTIVE DATE.—**

1 (1) *IN GENERAL.*—*The amendments made by*
 2 *this section shall take effect on the date of the enact-*
 3 *ment of this Act.*

4 (2) *NOMINATIONS TO INTERNAL REVENUE SERV-*
 5 *ICE OVERSIGHT BOARD.*—*The President shall submit*
 6 *nominations under section 7802 of the Internal Reve-*
 7 *nue Code of 1986, as added by this section, to the*
 8 *Senate not later than 6 months after the date of the*
 9 *enactment of this Act.*

10 **SEC. 102. COMMISSIONER OF INTERNAL REVENUE; OTHER**
 11 **OFFICIALS.**

12 (a) *IN GENERAL.*—*Section 7803 (relating to other per-*
 13 *sonnel) is amended to read as follows:*

14 **“SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER**
 15 **OFFICIALS.**

16 “(a) *COMMISSIONER OF INTERNAL REVENUE.*—

17 “(1) *APPOINTMENT.*—

18 “(A) *IN GENERAL.*—*There shall be in the*
 19 *Department of the Treasury a Commissioner of*
 20 *Internal Revenue who shall be appointed by the*
 21 *President, by and with the advice and consent of*
 22 *the Senate, to a 5-year term. The appointment*
 23 *shall be made without regard to political affili-*
 24 *ation or activity.*

1 “(B) *VACANCY.*—*Any individual appointed*
2 *to fill a vacancy in the position of Commissioner*
3 *occurring before the expiration of the term for*
4 *which such individual’s predecessor was ap-*
5 *pointed shall be appointed only for the remain-*
6 *der of that term.*

7 “(C) *REMOVAL.*—*The Commissioner may be*
8 *removed at the will of the President.*

9 “(2) *DUTIES.*—*The Commissioner shall have*
10 *such duties and powers as the Secretary may pre-*
11 *scribe, including the power to—*

12 “(A) *administer, manage, conduct, direct,*
13 *and supervise the execution and application of*
14 *the internal revenue laws or related statutes and*
15 *tax conventions to which the United States is a*
16 *party; and*

17 “(B) *recommend to the President a can-*
18 *didate for appointment as Chief Counsel for the*
19 *Internal Revenue Service when a vacancy occurs,*
20 *and recommend to the President the removal of*
21 *such Chief Counsel.*

22 *If the Secretary determines not to delegate a power*
23 *specified in subparagraph (A) or (B), such deter-*
24 *mination may not take effect until 30 days after the*
25 *Secretary notifies the Committees on Ways and*

1 *Means, Government Reform and Oversight, and Ap-*
 2 *propriations of the House of Representatives, the*
 3 *Committees on Finance, Government Operations, and*
 4 *Appropriations of the Senate, and the Joint Commit-*
 5 *tee on Taxation.*

6 “(3) *CONSULTATION WITH BOARD.*—*The Com-*
 7 *missioner shall consult with the Oversight Board on*
 8 *all matters set forth in paragraphs (2) and (3) (other*
 9 *than paragraph (3)(A)) of section 7802(d).*

10 “(b) *ASSISTANT COMMISSIONER FOR EMPLOYEE*
 11 *PLANS AND EXEMPT ORGANIZATIONS.*—*There is established*
 12 *within the Internal Revenue Service an office to be known*
 13 *as the ‘Office of Employee Plans and Exempt Organiza-*
 14 *tions’ to be under the supervision and direction of an As-*
 15 *sistant Commissioner of Internal Revenue. As head of the*
 16 *Office, the Assistant Commissioner shall be responsible for*
 17 *carrying out such functions as the Secretary may prescribe*
 18 *with respect to organizations exempt from tax under section*
 19 *501(a) and with respect to plans to which part I of sub-*
 20 *chapter D of chapter 1 applies (and with respect to organi-*
 21 *zations designed to be exempt under such section and plans*
 22 *designed to be plans to which such part applies) and other*
 23 *nonqualified deferred compensation arrangements. The As-*
 24 *sistant Commissioner shall report annually to the Commis-*

1 *sioner with respect to the Assistant Commissioner’s respon-*
 2 *sibilities under this section.*

3 “(c) *OFFICE OF TAXPAYER ADVOCATE.*—

4 “(1) *IN GENERAL.*—

5 “(A) *ESTABLISHMENT.*—*There is estab-*
 6 *lished in the Internal Revenue Service an office*
 7 *to be known as the ‘Office of the Taxpayer Advo-*
 8 *cate’. Such office shall be under the supervision*
 9 *and direction of an official to be known as the*
 10 *‘Taxpayer Advocate’ who shall be appointed with*
 11 *the approval of the Oversight Board by the Com-*
 12 *missioner of Internal Revenue and shall report*
 13 *directly to the Commissioner. The Taxpayer Ad-*
 14 *vocate shall be entitled to compensation at the*
 15 *same rate as the highest level official reporting*
 16 *directly to the Commissioner of Internal Reve-*
 17 *nue.*

18 “(B) *RESTRICTION ON SUBSEQUENT EM-*
 19 *PLOYMENT.*—*An individual who is an officer or*
 20 *employee of the Internal Revenue Service may be*
 21 *appointed as Taxpayer Advocate only if such in-*
 22 *dividual agrees not to accept any employment*
 23 *with the Internal Revenue Service for at least 5*
 24 *years after ceasing to be the Taxpayer Advocate.*

25 “(2) *FUNCTIONS OF OFFICE.*—

1 “(A) *IN GENERAL.*—*It shall be the function*
2 *of the Office of Taxpayer Advocate to—*

3 “(i) *assist taxpayers in resolving prob-*
4 *lems with the Internal Revenue Service,*

5 “(ii) *identify areas in which taxpayers*
6 *have problems in dealings with the Internal*
7 *Revenue Service,*

8 “(iii) *to the extent possible, propose*
9 *changes in the administrative practices of*
10 *the Internal Revenue Service to mitigate*
11 *problems identified under clause (ii), and*

12 “(iv) *identify potential legislative*
13 *changes which may be appropriate to miti-*
14 *gate such problems.*

15 “(B) *ANNUAL REPORTS.*—

16 “(i) *OBJECTIVES.*—*Not later than*
17 *June 30 of each calendar year, the Tax-*
18 *payer Advocate shall report to the Commit-*
19 *tee on Ways and Means of the House of*
20 *Representatives and the Committee on Fi-*
21 *nance of the Senate on the objectives of the*
22 *Taxpayer Advocate for the fiscal year begin-*
23 *ning in such calendar year. Any such re-*
24 *port shall contain full and substantive anal-*
25 *ysis, in addition to statistical information.*

1 “(ii) *ACTIVITIES*.—Not later than De-
2 cember 31 of each calendar year, the Tax-
3 payer Advocate shall report to the Commit-
4 tee on Ways and Means of the House of
5 Representatives and the Committee on Fi-
6 nance of the Senate on the activities of the
7 Taxpayer Advocate during the fiscal year
8 ending during such calendar year. Any such
9 report shall contain full and substantive
10 analysis, in addition to statistical informa-
11 tion, and shall—

12 “(I) identify the initiatives the
13 Taxpayer Advocate has taken on im-
14 proving taxpayer services and Internal
15 Revenue Service responsiveness,

16 “(II) contain recommendations
17 received from individuals with the au-
18 thority to issue Taxpayer Assistance
19 Orders under section 7811,

20 “(III) contain a summary of at
21 least 20 of the most serious problems
22 encountered by taxpayers, including a
23 description of the nature of such prob-
24 lems,

1 “(IV) contain an inventory of the
2 items described in subclauses (I), (II),
3 and (III) for which action has been
4 taken and the result of such action,

5 “(V) contain an inventory of the
6 items described in subclauses (I), (II),
7 and (III) for which action remains to
8 be completed and the period during
9 which each item has remained on such
10 inventory,

11 “(VI) contain an inventory of the
12 items described in subclauses (I), (II),
13 and (III) for which no action has been
14 taken, the period during which each
15 item has remained on such inventory,
16 the reasons for the inaction, and iden-
17 tify any Internal Revenue Service offi-
18 cial who is responsible for such inac-
19 tion,

20 “(VII) identify any Taxpayer As-
21 sistance Order which was not honored
22 by the Internal Revenue Service in a
23 timely manner, as specified under sec-
24 tion 7811(b),

1 “(VIII) contain recommendations
2 for such administrative and legislative
3 action as may be appropriate to re-
4 solve problems encountered by tax-
5 payers,

6 “(IX) identify areas of the tax
7 law that impose significant compliance
8 burdens on taxpayers or the Internal
9 Revenue Service, including specific rec-
10 ommendations for remedying these
11 problems,

12 “(X) in conjunction with the Na-
13 tional Director of Appeals, identify the
14 10 most litigated issues for each cat-
15 egory of taxpayers, including rec-
16 ommendations for mitigating such dis-
17 putes, and

18 “(XI) include such other informa-
19 tion as the Taxpayer Advocate may
20 deem advisable.

21 “(iii) *REPORT TO BE SUBMITTED DI-*
22 *RECTLY.—Each report required under this*
23 *subparagraph shall be provided directly to*
24 *the committees described in clauses (i) and*
25 *(ii) without any prior review or comment*

1 *from the Oversight Board, the Secretary of*
 2 *the Treasury, any other officer or employee*
 3 *of the Department of the Treasury, or the*
 4 *Office of Management and Budget.*

5 “(C) *OTHER RESPONSIBILITIES.—The Tax-*
 6 *payer Advocate shall—*

7 “(i) *monitor the coverage and geo-*
 8 *graphic allocation of problem resolution of-*
 9 *ficers, and*

10 “(ii) *develop guidance to be distributed*
 11 *to all Internal Revenue Service officers and*
 12 *employees outlining the criteria for referral*
 13 *of taxpayer inquiries to problem resolution*
 14 *officers.*

15 “(3) *RESPONSIBILITIES OF COMMISSIONER.—The*
 16 *Commissioner shall establish procedures requiring a*
 17 *formal response to all recommendations submitted to*
 18 *the Commissioner by the Taxpayer Advocate within 3*
 19 *months after submission to the Commissioner.”.*

20 “(b) *CONFORMING AMENDMENTS.—*

21 “(1) *The table of sections for subchapter A of*
 22 *chapter 80 is amended by striking the item relating*
 23 *to section 7803 and inserting the following new item:*

 “Sec. 7803. *Commissioner of Internal Revenue; other officials.*”

1 (2) *Subsection (b) of section 5109 of title 5,*
 2 *United States Code, is amended by striking “7802(b)”*
 3 *and inserting “7803(b)”.*

4 *(c) EFFECTIVE DATE.—*

5 (1) *IN GENERAL.—The amendments made by*
 6 *this section shall take effect on the date of the enact-*
 7 *ment of this Act.*

8 (2) *CURRENT OFFICERS.—*

9 (A) *In the case of an individual serving as*
 10 *Commissioner of Internal Revenue on the date of*
 11 *the enactment of this Act who was appointed to*
 12 *such position before such date, the 5-year term*
 13 *required by section 7803(a)(1) of the Internal*
 14 *Revenue Code of 1986, as added by this section,*
 15 *shall begin as of the date of such appointment.*

16 (B) *Section 7803(c)(1)(B) of such Code, as*
 17 *added by this section, shall not apply to the in-*
 18 *dividual serving as Taxpayer Advocate on the*
 19 *date of the enactment of this Act.*

20 **SEC. 103. OTHER PERSONNEL.**

21 (a) *IN GENERAL.—Section 7804 (relating to the effect*
 22 *of reorganization plans) is amended to read as follows:*

23 **“SEC. 7804. OTHER PERSONNEL.**

24 “(a) *APPOINTMENT AND SUPERVISION.—Unless other-*
 25 *wise prescribed by the Secretary, the Commissioner of Inter-*

1 *nal Revenue is authorized to employ such number of persons*
 2 *as the Commissioner deems proper for the administration*
 3 *and enforcement of the internal revenue laws, and the Com-*
 4 *missioner shall issue all necessary directions, instructions,*
 5 *orders, and rules applicable to such persons.*

6 “(b) *POSTS OF DUTY OF EMPLOYEES IN FIELD SERV-*
 7 *ICE OR TRAVELING.*—Unless otherwise prescribed by the
 8 *Secretary—*

9 “(1) *DESIGNATION OF POST OF DUTY.*—The
 10 *Commissioner shall determine and designate the posts*
 11 *of duty of all such persons engaged in field work or*
 12 *traveling on official business outside of the District of*
 13 *Columbia.*

14 “(2) *DETAIL OF PERSONNEL FROM FIELD SERV-*
 15 *ICE.*—The Commissioner may order any such person
 16 *engaged in field work to duty in the District of Co-*
 17 *lumbia, for such periods as the Commissioner may*
 18 *prescribe, and to any designated post of duty outside*
 19 *the District of Columbia upon the completion of such*
 20 *duty.*

21 “(c) *DELINQUENT INTERNAL REVENUE OFFICERS AND*
 22 *EMPLOYEES.*—If any officer or employee of the Treasury
 23 *Department acting in connection with the internal revenue*
 24 *laws fails to account for and pay over any amount of money*
 25 *or property collected or received by him in connection with*

1 *the internal revenue laws, the Secretary shall issue notice*
 2 *and demand to such officer or employee for payment of the*
 3 *amount which he failed to account for and pay over, and,*
 4 *upon failure to pay the amount demanded within the time*
 5 *specified in such notice, the amount so demanded shall be*
 6 *deemed imposed upon such officer or employee and assessed*
 7 *upon the date of such notice and demand, and the provi-*
 8 *sions of chapter 64 and all other provisions of law relating*
 9 *to the collection of assessed taxes shall be applicable in re-*
 10 *spect of such amount.”.*

11 *(b) CONFORMING AMENDMENTS.—*

12 *(1) Subsection (b) of section 6344 is amended by*
 13 *striking “section 7803(d)” and inserting “section*
 14 *7804(c)”.*

15 *(2) The table of sections for subchapter A of*
 16 *chapter 80 is amended by striking the item relating*
 17 *to section 7804 and inserting the following new item:*

“Sec. 7804. Other personnel.”

18 *(c) EFFECTIVE DATE.—The amendments made by this*
 19 *section shall take effect on the date of the enactment of this*
 20 *Act.*

21 **SEC. 104. PROHIBITION ON EXECUTIVE BRANCH INFLU-**
 22 **ENCE OVER TAXPAYER AUDITS AND OTHER**
 23 **INVESTIGATIONS.**

24 *(a) IN GENERAL.—Part I of subchapter A of chapter*
 25 *75 (relating to crimes, other offenses, and forfeitures) is*

1 *amended by adding after section 7216 the following new*
 2 *section:*

3 **“SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLU-**
 4 **ENCE OVER TAXPAYER AUDITS AND OTHER**
 5 **INVESTIGATIONS.**

6 *“(a) PROHIBITION.—It shall be unlawful for any ap-*
 7 *plicable person to request any officer or employee of the In-*
 8 *ternal Revenue Service to conduct or terminate an audit*
 9 *or other investigation of any particular taxpayer with re-*
 10 *spect to the tax liability of such taxpayer.*

11 *“(b) REPORTING REQUIREMENT.—Any officer or em-*
 12 *ployee of the Internal Revenue Service receiving any request*
 13 *prohibited by subsection (a) shall report the receipt of such*
 14 *request to the Chief Inspector of the Internal Revenue Serv-*
 15 *ice.*

16 *“(c) EXCEPTIONS.—Subsection (a) shall not apply*
 17 *to—*

18 *“(1) any request made to an applicable person*
 19 *by the taxpayer or a representative of the taxpayer*
 20 *and forwarded by such applicable person to the Inter-*
 21 *nal Revenue Service,*

22 *“(2) any request by an applicable person for dis-*
 23 *closure of return or return information under section*
 24 *6103 if such request is made in accordance with the*
 25 *requirements of such section, or*

1 “(3) any request by the Secretary of the Treas-
 2 ury as a consequence of the implementation of a
 3 change in tax policy.

4 “(d) *PENALTY.*—Any person who willfully violates
 5 subsection (a) or fails to report under subsection (b) shall
 6 be punished upon conviction by a fine in any amount not
 7 exceeding \$5,000, or imprisonment of not more than 5
 8 years, or both, together with the costs of prosecution.

9 “(e) *APPLICABLE PERSON.*—For purposes of this sec-
 10 tion, the term ‘applicable person’ means—

11 “(1) the President, the Vice President, any em-
 12 ployee of the executive office of the President, and any
 13 employee of the executive office of the Vice President,
 14 and

15 “(2) any individual (other than the Attorney
 16 General of the United States) serving in a position
 17 specified in section 5312 of title 5, United States
 18 Code.”

19 (b) *CLERICAL AMENDMENT.*—The table of sections for
 20 part I of subchapter A of chapter 75 is amended by adding
 21 after the item relating to section 7216 the following new
 22 item:

“Sec. 7217. Prohibition on executive branch influence over taxpayer
 audits and other investigations.”

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to requests made after the date of the*
 3 *enactment of this Act.*

4 ***Subtitle B—Personnel Flexibilities***

5 ***SEC. 111. PERSONNEL FLEXIBILITIES.***

6 (a) *IN GENERAL.*—*Part III of title 5, United States*
 7 *Code, is amended by adding at the end the following new*
 8 *subpart:*

9 ***“Subpart I—Miscellaneous***

10 ***“CHAPTER 93—PERSONNEL FLEXIBILITIES***

11 ***RELATING TO THE INTERNAL REVE-***

12 ***NUE SERVICE***

“Sec.

“9301. *General requirements.*

“9302. *Flexibilities relating to performance management.*

“9303. *Staffing flexibilities.*

“9304. *Flexibilities relating to demonstration projects.*

13 ***“§9301. General requirements***

14 “(a) *CONFORMANCE WITH MERIT SYSTEM PRIN-*
 15 *CIPLES, ETC.*—*Any flexibilities under this chapter shall be*
 16 *exercised in a manner consistent with—*

17 “(1) *chapter 23, relating to merit system prin-*
 18 *ciples and prohibited personnel practices; and*

19 “(2) *provisions of this title (outside of this sub-*
 20 *part) relating to preference eligibles.*

21 “(b) *REQUIREMENT RELATING TO UNITS REP-*
 22 *RESENTED BY LABOR ORGANIZATIONS.*—

1 “(1) *WRITTEN AGREEMENT REQUIRED.—Em-*
 2 *ployees within a unit with respect to which a labor*
 3 *organization is accorded exclusive recognition under*
 4 *chapter 71 shall not be subject to the exercise of any*
 5 *flexibility under section 9302, 9303, or 9304, unless*
 6 *there is a written agreement between the Internal*
 7 *Revenue Service and the organization permitting such*
 8 *exercise.*

9 “(2) *DEFINITION OF A WRITTEN AGREEMENT.—*
 10 *In order to satisfy paragraph (1), a written agree-*
 11 *ment—*

12 “(A) *need not be a collective bargaining*
 13 *agreement within the meaning of section*
 14 *7103(8); and*

15 “(B) *may not be an agreement imposed by*
 16 *the Federal Service Impasses Panel under section*
 17 *7119.*

18 **“§9302. Flexibilities relating to performance manage-**
 19 **ment**

20 “(a) *IN GENERAL.—The Commissioner of Internal*
 21 *Revenue shall, within a year after the date of the enactment*
 22 *of this chapter, establish a performance management system*
 23 *which—*

1 “(1) *subject to section 9301(b), shall cover all*
2 *employees of the Internal Revenue Service other*
3 *than—*

4 “(A) *the members of the Internal Revenue*
5 *Service Oversight Board;*

6 “(B) *the Commissioner of Internal Revenue;*
7 *and*

8 “(C) *the Chief Counsel for the Internal Rev-*
9 *enue Service;*

10 “(2) *shall maintain individual accountability*
11 *by—*

12 “(A) *establishing standards of performance*
13 *which—*

14 “(i) *shall permit the accurate evalua-*
15 *tion of each employee’s performance on the*
16 *basis of the individual and organizational*
17 *performance requirements applicable with*
18 *respect to the evaluation period involved,*
19 *taking into account individual contribu-*
20 *tions toward the attainment of any goals or*
21 *objectives under paragraph (3);*

22 “(ii) *shall be communicated to an em-*
23 *ployee before the start of any period with*
24 *respect to which the performance of such*

1 employee is to be evaluated using such
2 standards; and

3 “(iii) shall include at least 2 standards
4 of performance, the lowest of which shall de-
5 note the retention standard and shall be
6 equivalent to fully successful performance;

7 “(B) providing for periodic performance
8 evaluations to determine whether employees are
9 meeting all applicable retention standards; and

10 “(C) using the results of such employee’s
11 performance evaluation as a basis for adjust-
12 ments in pay and other appropriate personnel
13 actions; and

14 “(3) shall provide for (A) establishing goals or
15 objectives for individual, group, or organizational
16 performance (or any combination thereof), consistent
17 with Internal Revenue Service performance planning
18 procedures, including those established under the Gov-
19 ernment Performance and Results Act of 1993, the In-
20 formation Technology Management Reform Act of
21 1996, Revenue Procedure 64–22 (as in effect on July
22 30, 1997), and taxpayer service surveys, (B) commu-
23 nicating such goals or objectives to employees, and (C)
24 using such goals or objectives to make performance
25 distinctions among employees or groups of employees.

1 *For purposes of this title, performance of an employee dur-*
2 *ing any period in which such employee is subject to stand-*
3 *ards of performance under paragraph (2) shall be consid-*
4 *ered to be ‘unacceptable’ if the performance of such employee*
5 *during such period fails to meet any retention standard.*

6 “(b) *AWARDS.—*

7 “(1) *FOR SUPERIOR ACCOMPLISHMENTS.—In the*
8 *case of a proposed award based on the efforts of an*
9 *employee or former employee of the Internal Revenue*
10 *Service, any approval required under the provisions*
11 *of section 4502(b) shall be considered to have been*
12 *granted if the Office of Personnel Management does*
13 *not disapprove the proposed award within 60 days*
14 *after receiving the appropriate certification described*
15 *in such provisions.*

16 “(2) *FOR EMPLOYEES WHO REPORT DIRECTLY*
17 *TO THE COMMISSIONER.—*

18 “(A) *IN GENERAL.—In the case of an em-*
19 *ployee of the Internal Revenue Service who re-*
20 *ports directly to the Commissioner of Internal*
21 *Revenue, a cash award in an amount up to 50*
22 *percent of such employee’s annual rate of basic*
23 *pay may be made if the Commissioner finds such*
24 *an award to be warranted based on such employ-*
25 *ee’s performance.*

1 “(B) *NATURE OF AN AWARD.*—A cash
2 award under this paragraph shall not be consid-
3 ered to be part of basic pay.

4 “(C) *TAX ENFORCEMENT RESULTS.*—A cash
5 award under this paragraph may not be based
6 solely on tax enforcement results.

7 “(D) *ELIGIBLE EMPLOYEES.*—Whether or
8 not an employee is an employee who reports di-
9 rectly to the Commissioner of Internal Revenue
10 shall, for purposes of this paragraph, be deter-
11 mined under regulations which the Commis-
12 sioner shall prescribe, except that in no event
13 shall more than 8 employees be eligible for a cash
14 award under this paragraph in any calendar
15 year.

16 “(E) *LIMITATION ON COMPENSATION.*—For
17 purposes of applying section 5307 to an em-
18 ployee in connection with any calendar year to
19 which an award made under this paragraph to
20 such employee is attributable, subsection (a)(1)
21 of such section shall be applied by substituting
22 ‘to equal or exceed the annual rate of compensa-
23 tion for the Vice President for such calendar
24 year’ for ‘to exceed the annual rate of basic pay

1 *payable for level I of the Executive Schedule, as*
2 *of the end of such calendar year’.*

3 “(F) *APPROVAL REQUIRED.—An award*
4 *under this paragraph may not be made unless—*

5 “(i) *the Commissioner of Internal Rev-*
6 *enue certifies to the Office of Personnel*
7 *Management that such award is warranted;*
8 *and*

9 “(ii) *the Office approves, or does not*
10 *disapprove, the proposed award within 60*
11 *days after the date on which it is so cer-*
12 *tified.*

13 “(3) *BASED ON SAVINGS.—*

14 “(A) *IN GENERAL.—The Commissioner of*
15 *Internal Revenue may authorize the payment of*
16 *cash awards to employees based on documented*
17 *financial savings achieved by a group or organi-*
18 *zation which such employees comprise, if such*
19 *payments are made pursuant to a plan which—*

20 “(i) *specifies minimum levels of service*
21 *and quality to be maintained while achiev-*
22 *ing such financial savings; and*

23 “(ii) *is in conformance with criteria*
24 *prescribed by the Office of Personnel Man-*
25 *agement.*

1 “(B) *FUNDING*.—A cash award under this
 2 paragraph may be paid from the fund or appro-
 3 priation available to the activity primarily bene-
 4 fitting or the various activities benefiting.

5 “(C) *TAX ENFORCEMENT RESULTS*.—A cash
 6 award under this paragraph may not be based
 7 solely on tax enforcement results.

8 “(c) *OTHER PROVISIONS*.—

9 “(1) *NOTICE PROVISIONS*.—In applying sections
 10 4303(b)(1)(A) and 7513(b)(1) to employees of the In-
 11 ternal Revenue Service, ‘15 days’ shall be substituted
 12 for ‘30 days’.

13 “(2) *APPEALS*.—Notwithstanding the second sen-
 14 tence of section 5335(c), an employee of the Internal
 15 Revenue Service shall not have a right to appeal the
 16 denial of a periodic step increase under section 5335
 17 to the Merit Systems Protection Board.

18 **“§ 9303. Staffing flexibilities**

19 “(a) *ELIGIBILITY TO COMPETE FOR A PERMANENT*
 20 *APPOINTMENT IN THE COMPETITIVE SERVICE*.—

21 “(1) *ELIGIBILITY OF QUALIFIED VETERANS*.—

22 “(A) *IN GENERAL*.—No veteran described in
 23 subparagraph (B) shall be denied the oppor-
 24 tunity to compete for an announced vacant com-

petitive service position within the Internal Revenue Service by reason of—

“(i) not having acquired competitive status; or

“(ii) not being an employee of that agency.

“(B) *DESCRIPTION.*—An individual shall, for purposes of a position for which such individual is applying, be considered a veteran described in this subparagraph if such individual—

“(i) is either a preference eligible, or an individual (other than a preference eligible) who has been separated from the armed forces under honorable conditions after at least 3 years of active service; and

“(ii) meets the minimum qualification requirements for the position sought.

“(2) *ELIGIBILITY OF CERTAIN TEMPORARY EMPLOYEES.*—

“(A) *IN GENERAL.*—No temporary employee described in subparagraph (B) shall be denied the opportunity to compete for an announced vacant competitive service position within the In-

1 *ternal Revenue Service by reason of not having*
 2 *acquired competitive status.*

3 “(B) *DESCRIPTION.*—*An individual shall,*
 4 *for purposes of a position for which such indi-*
 5 *vidual is applying, be considered a temporary*
 6 *employee described in this subparagraph if—*

7 “(i) *such individual is then currently*
 8 *serving as a temporary employee in the In-*
 9 *ternal Revenue Service;*

10 “(ii) *such individual has completed at*
 11 *least 2 years of current continuous service*
 12 *in the competitive service under 1 or more*
 13 *term appointments, each of which was made*
 14 *under competitive procedures prescribed for*
 15 *permanent appointments;*

16 “(iii) *such individual’s performance*
 17 *under each term appointment referred to in*
 18 *clause (ii) met all applicable retention*
 19 *standards; and*

20 “(iv) *such individual meets the mini-*
 21 *imum qualification requirements for the po-*
 22 *sition sought.*

23 “(b) *RATING SYSTEMS.*—

24 “(1) *IN GENERAL.*—*Notwithstanding subchapter*
 25 *I of chapter 33, the Commissioner of Internal Reve-*

1 *nue may establish category rating systems for evalu-*
 2 *ating job applicants for positions in the competitive*
 3 *service, under which qualified candidates are divided*
 4 *into 2 or more quality categories on the basis of rel-*
 5 *ative degrees of merit, rather than assigned individ-*
 6 *ual numerical ratings. Each applicant who meets the*
 7 *minimum qualification requirements for the position*
 8 *to be filled shall be assigned to an appropriate cat-*
 9 *egory based on an evaluation of the applicant's*
 10 *knowledge, skills, and abilities relative to those needed*
 11 *for successful performance in the job to be filled.*

12 *“(2) TREATMENT OF PREFERENCE ELIGIBLES.—*
 13 *Within each quality category established under para-*
 14 *graph (1), preference eligibles shall be listed ahead of*
 15 *individuals who are not preference eligibles. For other*
 16 *than scientific and professional positions at or higher*
 17 *than GS–9 (or equivalent), preference eligibles who*
 18 *have a compensable service-connected disability of 10*
 19 *percent or more, and who meet the minimum quali-*
 20 *fication standards, shall be listed in the highest qual-*
 21 *ity category.*

22 *“(3) SELECTION PROCESS.—An appointing au-*
 23 *thority may select any applicant from the highest*
 24 *quality category or, if fewer than 3 candidates have*
 25 *been assigned to the highest quality category, from a*

1 merged category consisting of the highest and second
2 highest quality categories. Notwithstanding the pre-
3 ceding sentence, the appointing authority may not
4 pass over a preference eligible in the same or a higher
5 category from which selection is made, unless the re-
6 quirements of section 3317(b) or 3318(b), as applica-
7 ble, are satisfied, except that in no event may certifi-
8 cation of a preference eligible under this subsection be
9 discontinued by the Internal Revenue Service under
10 section 3317(b) before the end of the 6-month period
11 beginning on the date of such employee's first certifi-
12 cation.

13 “(c) *INVOLUNTARY REASSIGNMENTS AND REMOVALS*
14 *OF CAREER APPOINTEES IN THE SENIOR EXECUTIVE SERV-*
15 *ICE.*—Neither section 3395(e)(1) nor section 3592(b)(1)
16 shall apply with respect to the Internal Revenue Service.

17 “(d) *PROBATIONARY PERIODS.*—Notwithstanding any
18 other provision of law or regulation, the Commissioner of
19 Internal Revenue may establish a period of probation under
20 section 3321 of up to 3 years for any position if, as deter-
21 mined by the Commissioner, a shorter period would be in-
22 sufficient for the incumbent to demonstrate complete pro-
23 ficiency in such position.

1 “(e) *PROVISIONS THAT REMAIN APPLICABLE.*—No
 2 *provision of this section exempts the Internal Revenue Serv-*
 3 *ice from—*

4 “(1) *any employment priorities established*
 5 *under direction of the President for the placement of*
 6 *surplus or displaced employees; or*

7 “(2) *its obligations under any court order or de-*
 8 *cree relating to the employment practices of the Inter-*
 9 *nal Revenue Service.*

10 **“§9304. *Flexibilities relating to demonstration***
 11 ***projects***

12 “(a) *AUTHORITY TO CONDUCT.*—*The Commissioner of*
 13 *Internal Revenue may, in accordance with this section, con-*
 14 *duct 1 or more demonstration projects to improve personnel*
 15 *management; provide increased individual accountability;*
 16 *eliminate obstacles to the removal of or imposing any dis-*
 17 *ciplinary action with respect to poor performers, subject to*
 18 *the requirements of due process; expedite appeals from ad-*
 19 *verse actions or performance-based actions; and promote*
 20 *pay based on performance.*

21 “(b) *GENERAL REQUIREMENTS.*—*Except as provided*
 22 *in subsection (c), each demonstration project under this sec-*
 23 *tion shall comply with the provisions of section 4703.*

24 “(c) *SPECIAL RULES.*—*For purposes of any dem-*
 25 *onstration project under this section—*

1 “(1) *AUTHORITY OF COMMISSIONER.*—*The Com-*
 2 *missioner of Internal Revenue shall exercise the au-*
 3 *thority provided to the Office of Personnel Manage-*
 4 *ment under section 4703.*

5 “(2) *PROVISIONS NOT APPLICABLE.*—*The follow-*
 6 *ing provisions of section 4703 shall not apply:*

7 “(A) *Paragraphs (3) through (6) of sub-*
 8 *section (b).*

9 “(B) *Paragraphs (1), (2)(B)(ii), and (4) of*
 10 *subsection (c).*

11 “(C) *Subsections (d) through (g).*

12 “(d) *NOTIFICATION REQUIRED TO BE GIVEN.*—

13 “(1) *TO EMPLOYEES.*—*The Commissioner of In-*
 14 *ternal Revenue shall notify employees likely to be af-*
 15 *ected by a project proposed under this section at least*
 16 *90 days in advance of the date such project is to take*
 17 *effect.*

18 “(2) *TO CONGRESS AND OPM.*—*The Commis-*
 19 *sioner of Internal Revenue shall, with respect to each*
 20 *demonstration project under this section, provide each*
 21 *House of Congress and the Office of Personnel Man-*
 22 *agement with a report, at least 30 days in advance*
 23 *of the date such project is to take effect, setting forth*
 24 *the final version of the plan for such project. Such re-*
 25 *port shall, with respect to the project to which it re-*

1 *lates, include the information specified in section*
2 *4703(b)(1).*

3 *“(e) LIMITATIONS.—No demonstration project*
4 *under this section may—*

5 *“(1) provide for a waiver of any regulation*
6 *prescribed under any provision of law referred to*
7 *in paragraph (2)(B)(i) or (3) of section 4703(c);*

8 *“(2) provide for a waiver of subchapter V of*
9 *chapter 63 or subpart G of part III (or any reg-*
10 *ulations prescribed under such subchapter or*
11 *subpart);*

12 *“(3) provide for a waiver of any law or reg-*
13 *ulation relating to preference eligibles as defined*
14 *in section 2108 or subchapter II or III of chap-*
15 *ter 73 (or any regulations prescribed there-*
16 *under);*

17 *“(4) permit collective bargaining over pay*
18 *or benefits, or require collective bargaining over*
19 *any matter which would not be required under*
20 *section 7106; or*

21 *“(5) include a system for measuring per-*
22 *formance that provides for only 1 level of per-*
23 *formance at or above the level of fully successful*
24 *or better.*

1 “(f) *PERMISSIBLE PROJECTS.*—*Notwithstanding any*
 2 *other provision of law, a demonstration project under this*
 3 *section—*

4 “(1) *may establish alternative means of resolving*
 5 *any dispute within the jurisdiction of the Equal Em-*
 6 *ployment Opportunity Commission, the Merit Sys-*
 7 *tems Protection Board, the Federal Labor Relations*
 8 *Authority, or the Federal Service Impasses Panel; and*

9 “(2) *may permit the Internal Revenue Service to*
 10 *adopt any alternative dispute resolution procedure*
 11 *that a private entity may lawfully adopt.*

12 “(g) *CONSULTATION AND COORDINATION.*—*The Com-*
 13 *missioner of Internal Revenue shall consult with the Direc-*
 14 *tor of the Office of Personnel Management in the develop-*
 15 *ment and implementation of each demonstration project*
 16 *under this section and shall submit such reports to the Di-*
 17 *rector as the Director may require. The Director or the*
 18 *Commissioner of Internal Revenue may terminate a dem-*
 19 *onstration project under this section if either of them deter-*
 20 *mines that the project creates a substantial hardship on,*
 21 *or is not in the best interests of, the public, the Federal*
 22 *Government, employees, or qualified applicants for employ-*
 23 *ment with the Internal Revenue Service.*

24 “(h) *TERMINATION.*—*Each demonstration project*
 25 *under this section shall terminate before the end of the 5-*

1 year period beginning on the date on which the project takes
 2 effect, except that any such project may continue beyond
 3 the end of such period, for not to exceed 2 years, if the Com-
 4 missioner of Internal Revenue, with the concurrence of the
 5 Director, determines such extension is necessary to validate
 6 the results of the project. Not later than 6 months before
 7 the end of the 5-year period and any extension under the
 8 preceding sentence, the Commissioner of Internal Revenue
 9 shall, with respect to the demonstration project involved,
 10 submit a legislative proposal to the Congress if the Commis-
 11 sioner determines that such project should be made perma-
 12 nent, in whole or in part.”

13 (b) *CLERICAL AMENDMENT.*—The analysis for part III
 14 of title 5, United States Code, is amended by adding at
 15 the end the following:

“Subpart I—Miscellaneous

“93. *Personnel Flexibilities Relating to the Internal Revenue*
Service 9301”.

16 (c) *EFFECTIVE DATE.*—This section shall take effect
 17 on the date of enactment of this Act.

18 **TITLE II—ELECTRONIC FILING**

19 **SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION**

20 **RETURNS.**

21 (a) *IN GENERAL.*—It is the policy of the Congress that
 22 paperless filing should be the preferred and most convenient
 23 means of filing tax and information returns, and that by

1 *the year 2007, no more than 20 percent of all such returns*
2 *should be filed on paper.*

3 *(b) STRATEGIC PLAN.—*

4 *(1) IN GENERAL.—Not later than 180 days after*
5 *the date of the enactment of this Act, the Secretary of*
6 *the Treasury or the Secretary’s delegate (hereafter in*
7 *this section referred to as the “Secretary”) shall estab-*
8 *lish a plan to eliminate barriers, provide incentives,*
9 *and use competitive market forces to increase elec-*
10 *tronic filing gradually over the next 10 years while*
11 *maintaining processing times for paper returns at 40*
12 *days. To the extent practicable, such plan shall pro-*
13 *vide that all returns prepared electronically for tax-*
14 *able years beginning after 2001 shall be filed elec-*
15 *tronically.*

16 *(2) ELECTRONIC COMMERCE ADVISORY GROUP.—*

17 *To ensure that the Secretary receives input from the*
18 *private sector in the development and implementation*
19 *of the plan required by paragraph (1), the Secretary*
20 *shall convene an electronic commerce advisory group*
21 *to include representatives from the small business*
22 *community and from the tax practitioner, preparer,*
23 *and computerized tax processor communities and*
24 *other representatives from the electronic filing indus-*
25 *try.*

1 (c) *PROMOTION OF ELECTRONIC FILING AND INCEN-*
 2 *TIVES.*—Section 6011 is amended by redesignating sub-
 3 section (f) as subsection (g) and by inserting after sub-
 4 section (e) the following new subsection:

5 “(f) *PROMOTION OF ELECTRONIC FILING.*—

6 “(1) *IN GENERAL.*—The Secretary is authorized
 7 to promote the benefits of and encourage the use of
 8 electronic tax administration programs, as they be-
 9 come available, through the use of mass communica-
 10 tions and other means.

11 “(2) *INCENTIVES.*—The Secretary may imple-
 12 ment procedures to provide for the payment of appro-
 13 priate incentives for electronically filed returns.”

14 (d) *ANNUAL REPORTS.*—Not later than June 30 of
 15 each calendar year after 1997, the Chairperson of the Inter-
 16 nal Revenue Service Oversight Board, the Secretary, and
 17 the Chairperson of the electronic commerce advisory group
 18 established under subsection (b)(2) shall report to the Com-
 19 mittees on Ways and Means, Appropriations, and Govern-
 20 ment Reform and Oversight of the House of Representatives,
 21 the Committees on Finance, Appropriations, and Govern-
 22 ment Affairs of the Senate, and the Joint Committee on
 23 Taxation, on—

1 (1) *the progress of the Internal Revenue Service*
 2 *in meeting the goal of receiving electronically 80 per-*
 3 *cent of tax and information returns by 2007;*

4 (2) *the status of the plan required by subsection*
 5 *(b); and*

6 (3) *the legislative changes necessary to assist the*
 7 *Internal Revenue Service in meeting such goal.*

8 **SEC. 202. DUE DATE FOR CERTAIN INFORMATION RETURNS**
 9 **FILED ELECTRONICALLY.**

10 (a) *IN GENERAL.*—Section 6071 (relating to time for
 11 *filing returns and other documents*) is amended by redesign-
 12 *ating subsection (b) as subsection (c) and by inserting*
 13 *after subsection (a) the following new subsection:*

14 “(b) *ELECTRONICALLY FILED INFORMATION RE-*
 15 *URNS.*—Returns made under subparts B and C of part
 16 *III of this subchapter which are filed electronically shall*
 17 *be filed on or before March 31 of the year following the cal-*
 18 *endar year to which such returns relate.”*

19 (b) *EFFECTIVE DATE.*—The amendment made by this
 20 *section shall apply to returns required to be filed after De-*
 21 *cember 31, 1999.*

22 **SEC. 203. PAPERLESS ELECTRONIC FILING.**

23 (a) *IN GENERAL.*—Section 6061 (relating to signing
 24 *of returns and other documents*) is amended—

1 (1) *by striking “Except as otherwise provided*
2 *by” and inserting the following:*

3 “(a) *GENERAL RULE.—Except as otherwise provided*
4 *by subsection (b) and”, and*

5 (2) *by adding at the end the following new sub-*
6 *section:*

7 “(b) *ELECTRONIC SIGNATURES.—*

8 “(1) *IN GENERAL.—The Secretary shall develop*
9 *procedures for the acceptance of signatures in digital*
10 *or other electronic form. Until such time as such pro-*
11 *cedures are in place, the Secretary may waive the re-*
12 *quirement of a signature for all returns or classes of*
13 *returns, or may provide for alternative methods of*
14 *subscribing all returns, declarations, statements, or*
15 *other documents required or permitted to be made or*
16 *written under internal revenue laws and regulations.*

17 “(2) *TREATMENT OF ALTERNATIVE METHODS.—*
18 *Notwithstanding any other provision of law, any re-*
19 *turn, declaration, statement or other document filed*
20 *without signature under the authority of this sub-*
21 *section or verified, signed or subscribed under any*
22 *method adopted under paragraph (1) shall be treated*
23 *for all purposes (both civil and criminal, including*
24 *penalties for perjury) in the same manner as though*
25 *signed and subscribed. Any such return, declaration,*

1 *statement or other document shall be presumed to*
2 *have been actually submitted and subscribed by the*
3 *person on whose behalf it was submitted.*

4 “(3) *PUBLISHED GUIDANCE.—The Secretary*
5 *shall publish guidance as appropriate to define and*
6 *implement any waiver of the signature requirements.”*

7 *(b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—Sec-*
8 *tion 7502(c) is amended to read as follows:*

9 “(c) *REGISTERED AND CERTIFIED MAILING; ELEC-*
10 *TRONIC FILING.—*

11 “(1) *REGISTERED MAIL.—For purposes of this*
12 *section, if any return, claim, statement, or other doc-*
13 *ument, or payment, is sent by United States reg-*
14 *istered mail—*

15 “(A) *such registration shall be prima facie*
16 *evidence that the return, claim, statement, or*
17 *other document was delivered to the agency, offi-*
18 *cer, or office to which addressed, and*

19 “(B) *the date of registration shall be deemed*
20 *the postmark date.*

21 “(2) *CERTIFIED MAIL; ELECTRONIC FILING.—The*
22 *Secretary is authorized to provide by regulations the*
23 *extent to which the provisions of paragraph (1) with*
24 *respect to prima facie evidence of delivery and the*

1 *postmark date shall apply to certified mail and elec-*
 2 *tronic filing.”.*

3 *(c) ESTABLISHMENT OF PROCEDURES FOR OTHER IN-*
 4 *FORMATION.—In the case of taxable periods beginning after*
 5 *December 31, 1998, the Secretary of the Treasury or the*
 6 *Secretary’s delegate shall, to the extent practicable, establish*
 7 *procedures to accept, in electronic form, any other informa-*
 8 *tion, statements, elections, or schedules, from taxpayers fil-*
 9 *ing returns electronically, so that such taxpayers will not*
 10 *be required to file any paper.*

11 *(d) PROCEDURES FOR COMMUNICATIONS BETWEEN*
 12 *IRS AND PREPARER OF ELECTRONICALLY FILED RE-*
 13 *TURNS.—The Secretary shall establish procedures for tax-*
 14 *payers to authorize, on electronically filed returns, the pre-*
 15 *parer of such returns to communicate with the Internal*
 16 *Revenue Service on matters included on such returns.*

17 *(e) EFFECTIVE DATE.—The amendments made by this*
 18 *section shall take effect on the date of the enactment of this*
 19 *Act.*

20 **SEC. 204. RETURN-FREE TAX SYSTEM.**

21 *(a) IN GENERAL.—The Secretary of the Treasury or*
 22 *the Secretary’s delegate shall develop procedures for the im-*
 23 *plementation of a return-free tax system under which ap-*
 24 *propriate individuals would be permitted to comply with*
 25 *the Internal Revenue Code of 1986 without making the re-*

1 turn required under section 6012 of such Code for taxable
 2 years beginning after 2007.

3 (b) *REPORT.*—Not later than June 30 of each calendar
 4 year after 1999, such Secretary shall report to the Commit-
 5 tee on Ways and Means of the House of Representatives,
 6 the Committee on Finance of the Senate, and the Joint
 7 Committee on Taxation on—

8 (1) what additional resources the Internal Reve-
 9 nue Service would need to implement such a system,

10 (2) the changes to the Internal Revenue Code of
 11 1986 that could enhance the use of such a system,

12 (3) the procedures developed pursuant to sub-
 13 section (a), and

14 (4) the number and classes of taxpayers that
 15 would be permitted to use the procedures developed
 16 pursuant to subsection (a).

17 **SEC. 205. ACCESS TO ACCOUNT INFORMATION.**

18 Not later than December 31, 2006, the Secretary of the
 19 Treasury or the Secretary's delegate shall develop proce-
 20 dures under which a taxpayer filing returns electronically
 21 would be able to review the taxpayer's account electroni-
 22 cally, but only if all necessary safeguards to ensure the pri-
 23 vacy of such account information are in place.

**TITLE III—TAXPAYER
PROTECTION AND RIGHTS**

SEC. 300. SHORT TITLE.

This title may be cited as the “Taxpayer Bill of Rights 3”.

Subtitle A—Burden of Proof

SEC. 301. BURDEN OF PROOF.

(a) IN GENERAL.—Chapter 76 (relating to judicial proceedings) is amended by adding at the end the following new subchapter:

“Subchapter E—Burden of Proof

“Sec. 7491. Burden of proof.

“SEC. 7491. BURDEN OF PROOF.

“(a) GENERAL RULE.—The Secretary shall have the burden of proof in any court proceeding with respect to any factual issue relevant to ascertaining the income tax liability of a taxpayer.

“(b) LIMITATIONS.—Subsection (a) shall only apply with respect to an issue if—

“(1) the taxpayer asserts a reasonable dispute with respect to such issue,

“(2) the taxpayer has fully cooperated with the Secretary with respect to such issue, including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and doc-

1 *uments within the control of the taxpayer, as reason-*
 2 *ably requested by the Secretary, and*

3 *“(3) in the case of a partnership, corporation, or*
 4 *trust, the taxpayer is described in section*
 5 *7430(c)(4)(A)(ii).*

6 *“(c) SUBSTANTIATION.—Nothing in this section shall*
 7 *be construed to override any requirement of this title to sub-*
 8 *stantiate any item.”*

9 *(b) CONFORMING AMENDMENTS.—*

10 *(1) Section 6201 is amended by striking sub-*
 11 *section (d) and redesignating subsection (e) as sub-*
 12 *section (d).*

13 *(2) The table of subchapters for chapter 76 is*
 14 *amended by adding at the end the following new item:*

“Subchapter E. Burden of proof.”

15 *(c) EFFECTIVE DATE.—The amendments made by this*
 16 *section shall apply to court proceedings arising in connec-*
 17 *tion with examinations commencing after the date of the*
 18 *enactment of this Act.*

19 ***Subtitle B—Proceedings by*** 20 ***Taxpayers***

21 ***SEC. 311. EXPANSION OF AUTHORITY TO AWARD COSTS*** 22 ***AND CERTAIN FEES.***

23 *(a) AWARD OF HIGHER ATTORNEY’S FEES BASED ON*
 24 *COMPLEXITY OF ISSUES.—Clause (iii) of section*
 25 *7430(c)(1)(B) (relating to the award of costs and certain*

1 fees) is amended by inserting “the difficulty of the issues
 2 presented in the case, or the local availability of tax exper-
 3 tise,” before “justifies a higher rate”.

4 (b) AWARD OF ADMINISTRATIVE COSTS INCURRED
 5 AFTER 30-DAY LETTER.—Paragraph (2) of section 7430(c)
 6 is amended by striking the last sentence and inserting the
 7 following:

8 “Such term shall only include costs incurred on or
 9 after whichever of the following is the earliest: (i) the
 10 date of the receipt by the taxpayer of the notice of the
 11 decision of the Internal Revenue Service Office of Ap-
 12 peals, (ii) the date of the notice of deficiency, or (iii)
 13 the date on which the 1st letter of proposed deficiency
 14 which allows the taxpayer an opportunity for admin-
 15 istrative review in the Internal Revenue Service Of-
 16 fice of Appeals is sent.”.

17 (c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERV-
 18 ICES.—Paragraph (3) of section 7430(c) is amended to read
 19 as follows:

20 “(3) ATTORNEY’S FEES.—

21 “(A) IN GENERAL.—For purposes of para-
 22 graphs (1) and (2), fees for the services of an in-
 23 dividual (whether or not an attorney) who is au-
 24 thorized to practice before the Tax Court or be-

1 *fore the Internal Revenue Service shall be treated*
2 *as fees for the services of an attorney.*

3 “(B) *PRO BONO SERVICES.*—*In any case in*
4 *which the court could have awarded attorney’s*
5 *fees under subsection (a) but for the fact that an*
6 *individual is representing the prevailing party*
7 *for no fee or for a fee which (taking into account*
8 *all the facts and circumstances) is no more than*
9 *a nominal fee, the court may also award a judg-*
10 *ment or settlement for such amounts as the court*
11 *determines to be appropriate (based on hours*
12 *worked and costs expended) for services of such*
13 *individual but only if such award is paid to*
14 *such individual or such individual’s employer.”*

15 (d) *DETERMINATION OF WHETHER POSITION OF*
16 *UNITED STATES IS SUBSTANTIALLY JUSTIFIED.*—*Subpara-*
17 *graph (B) of section 7430(c)(4) is amended by redesignating*
18 *clause (iii) as clause (iv) and by inserting after clause (ii)*
19 *the following new clause:*

20 “(iii) *EFFECT OF LOSING ON SUBSTAN-*
21 *TIALLY SIMILAR ISSUES.*—*In determining*
22 *for purposes of clause (i) whether the posi-*
23 *tion of the United States was substantially*
24 *justified, the court shall take into account*
25 *whether the United States has lost in courts*

1 of appeal for other circuits on substantially
2 similar issues.”

3 (e) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to costs incurred (and, in the case of
5 the amendment made by subsection (c), services performed)
6 more than 180 days after the date of the enactment of this
7 Act.

8 **SEC. 312. CIVIL DAMAGES FOR NEGLIGENCE IN COLLEC-**
9 **TION ACTIONS.**

10 (a) *IN GENERAL.*—Section 7433 (relating to civil
11 damages for certain unauthorized collection actions) is
12 amended—

13 (1) in subsection (a), by inserting “, or by rea-
14 son of negligence,” after “recklessly or intentionally”,
15 and

16 (2) in subsection (b)—

17 (A) in the matter preceding paragraph (1),
18 by inserting “(\$100,000, in the case of neg-
19 ligence)” after “\$1,000,000”, and

20 (B) in paragraph (1), by inserting “or neg-
21 ligent” after “reckless or intentional”.

22 (b) *REQUIREMENT THAT ADMINISTRATIVE REMEDIES*
23 *BE EXHAUSTED.*—Paragraph (1) of section 7433(d) is
24 amended to read as follows:

1 “(1) *REQUIREMENT THAT ADMINISTRATIVE REM-*
 2 *EDIES BE EXHAUSTED.*—A judgment for damages
 3 *shall not be awarded under subsection (b) unless the*
 4 *court determines that the plaintiff has exhausted the*
 5 *administrative remedies available to such plaintiff*
 6 *within the Internal Revenue Service.”*

7 *(c) EFFECTIVE DATE.*—The amendments made by this
 8 *section shall apply to actions of officers or employees of the*
 9 *Internal Revenue Service after the date of the enactment*
 10 *of this Act.*

11 **SEC. 313. INCREASE IN SIZE OF CASES PERMITTED ON**
 12 **SMALL CASE CALENDAR.**

13 *(a) IN GENERAL.*—Subsection (a) of section 7463 (re-
 14 *lating to disputes involving \$10,000 or less) is amended by*
 15 *striking “\$10,000” each place it appears and inserting*
 16 *“\$25,000”.*

17 *(b) CONFORMING AMENDMENTS.*—

18 *(1) The section heading for section 7463 is*
 19 *amended by striking “\$10,000” and inserting*
 20 *“\$25,000”.*

21 *(2) The item relating to section 7463 in the table*
 22 *of sections for part II of subchapter C of chapter 76*
 23 *is amended by striking “\$10,000” and inserting*
 24 *“\$25,000”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to proceedings commencing after the*
 3 *date of the enactment of this Act.*

4 ***Subtitle C—Relief for Innocent***
 5 ***Spouses and for Taxpayers Un-***
 6 ***able To Manage Their Financial***
 7 ***Affairs Due to Disabilities***

8 ***SEC. 321. SPOUSE RELIEVED IN WHOLE OR IN PART OF LI-***
 9 ***ABILITY IN CERTAIN CASES.***

10 (a) *IN GENERAL.*—*Subpart B of part II of subchapter*
 11 *A of chapter 61 is amended by inserting after section 6014*
 12 *the following new section:*

13 ***“SEC. 6015. INNOCENT SPOUSE RELIEF; PETITION TO TAX***
 14 ***COURT.***

15 ***“(a) SPOUSE RELIEVED OF LIABILITY IN CERTAIN***
 16 ***CASES.—***

17 ***“(1) IN GENERAL.***—*Under procedures prescribed*
 18 *by the Secretary, if—*

19 ***“(A) a joint return has been made under***
 20 ***section 6013 for a taxable year,***

21 ***“(B) on such return there is an understatement of tax attributable to erroneous items of 1***
 22 ***spouse,***
 23

24 ***“(C) the other spouse establishes that in***
 25 ***signing the return he or she did not know, and***

1 *had no reason to know, that there was such un-*
2 *derstatement,*

3 *“(D) taking into account all the facts and*
4 *circumstances, it is inequitable to hold the other*
5 *spouse liable for the deficiency in tax for such*
6 *taxable year attributable to such understatement,*
7 *and*

8 *“(E) the other spouse claims (in such form*
9 *as the Secretary may prescribe) the benefits of*
10 *this subsection not later than the date which is*
11 *2 years after the date of the assessment of such*
12 *deficiency,*

13 *then the other spouse shall be relieved of liability for*
14 *tax (including interest, penalties, and other amounts)*
15 *for such taxable year to the extent such liability is at-*
16 *tributable to such understatement.*

17 *“(2) APPORTIONMENT OF RELIEF.—If a spouse*
18 *who, but for paragraph (1)(C), would be relieved of*
19 *liability under paragraph (1), establishes that in*
20 *signing the return such spouse did not know, and had*
21 *no reason to know, the extent of such understatement,*
22 *then such spouse shall be relieved of liability for tax*
23 *(including interest, penalties, and other amounts) for*
24 *such taxable year to the extent that such liability is*
25 *attributable to the portion of such understatement of*

1 *which such spouse did not know and had no reason*
 2 *to know.*

3 “(3) *UNDERSTATEMENT.*—*For purposes of this*
 4 *subsection, the term ‘understatement’ has the meaning*
 5 *given to such term by section 6662(d)(2)(A).*

6 “(4) *SPECIAL RULE FOR COMMUNITY PROPERTY*
 7 *INCOME.*—*For purposes of this subsection, the deter-*
 8 *mination of the spouse to whom items of gross income*
 9 *(other than gross income from property) are attrib-*
 10 *utable shall be made without regard to community*
 11 *property laws.*

12 “(b) *PETITION FOR REVIEW BY TAX COURT.*—*In the*
 13 *case of an individual who has filed a claim under sub-*
 14 *section (a) within the period specified in subsection*
 15 *(a)(1)(E)—*

16 “(1) *IN GENERAL.*—*Such individual may peti-*
 17 *tion the Tax Court (and the Tax Court shall have ju-*
 18 *risdiction) to determine such claim if such petition is*
 19 *filed during the 90-day period beginning on the ear-*
 20 *lier of—*

21 “(A) *the date which is 6 months after the*
 22 *date such claim is filed with the Secretary, or*

23 “(B) *the date on which the Secretary mails*
 24 *by certified or registered mail a notice to such*
 25 *individual denying such claim.*

1 *Such 90-day period shall be determined by not count-*
2 *ing Saturday, Sunday, or a legal holiday in the Dis-*
3 *trict of Columbia as the last day of such period.*

4 *“(2) RESTRICTIONS APPLICABLE TO COLLECTION*
5 *OF ASSESSMENT.—*

6 *“(A) IN GENERAL.—Except as otherwise*
7 *provided in section 6851 or 6861, no levy or pro-*
8 *ceeding in court for collection of any assessment*
9 *to which such claim relates shall be made, begun,*
10 *or prosecuted, until the expiration of the 90-day*
11 *period described in paragraph (1), nor, if a peti-*
12 *tion has been filed with the Tax Court, until the*
13 *decision of the Tax Court has become final. Rules*
14 *similar to the rules of section 7485 shall apply*
15 *with respect to the collection of such assessment.*

16 *“(B) AUTHORITY TO ENJOIN COLLECTION*
17 *ACTIONS.—Notwithstanding the provisions of sec-*
18 *tion 7421(a), the beginning of such proceeding or*
19 *levy during the time the prohibition under sub-*
20 *paragraph (A) is in force may be enjoined by a*
21 *proceeding in the proper court, including the*
22 *Tax Court. The Tax Court shall have no juris-*
23 *isdiction under this paragraph to enjoin any ac-*
24 *tion or proceeding unless a timely petition for a*
25 *determination of such claim has been filed and*

1 *then only in respect of the amount of the assess-*
 2 *ment to which such claim relates.*

3 “(C) *JEOPARDY COLLECTION.*—*If the Sec-*
 4 *retary makes a finding that the collection of the*
 5 *tax is in jeopardy, nothing in this subsection*
 6 *shall prevent the immediate collection of such*
 7 *tax.*

8 “(c) *SUSPENSION OF RUNNING OF PERIOD OF LIMITA-*
 9 *TIONS.*—*The running of the period of limitations in section*
 10 *6502 on the collection of the assessment to which the petition*
 11 *under subsection (b) relates shall be suspended for the period*
 12 *during which the Secretary is prohibited by subsection (b)*
 13 *from collecting by levy or a proceeding in court and for*
 14 *60 days thereafter.*

15 “(d) *APPLICABLE RULES.*—

16 “(1) *ALLOWANCE OF APPLICATION.*—*Except as*
 17 *provided in paragraph (2), notwithstanding any*
 18 *other law or rule of law (other than section 6512(b),*
 19 *7121, or 7122), credit or refund shall be allowed or*
 20 *made to the extent attributable to the application of*
 21 *this section.*

22 “(2) *RES JUDICATA.*—*In the case of any claim*
 23 *under subsection (a), the determination of the Tax*
 24 *Court in any prior proceeding for the same taxable*
 25 *periods in which the decision has become final, shall*

1 *be conclusive except with respect to the qualification*
 2 *of the spouse for relief which was not an issue in such*
 3 *proceeding. The preceding sentence shall not apply if*
 4 *the Tax Court determines that the spouse participated*
 5 *meaningfully in such prior proceeding.*

6 *“(3) LIMITATION ON TAX COURT JURISDIC-*
 7 *TION.—If a suit for refund is begun by either spouse*
 8 *pursuant to section 6532, the Tax Court shall lose ju-*
 9 *risdiction of the spouse’s action under this section to*
 10 *whatever extent jurisdiction is acquired by the dis-*
 11 *trict court or the United States Court of Federal*
 12 *Claims over the taxable years that are the subject of*
 13 *the suit for refund.”*

14 *(b) SEPARATE FORM FOR APPLYING FOR SPOUSAL*
 15 *RELIEF.—Not later than 180 days after the date of the en-*
 16 *actment of this Act, the Secretary of the Treasury shall de-*
 17 *velop a separate form with instructions for use by taxpayers*
 18 *in applying for relief under section 6015(a) of the Internal*
 19 *Revenue Code of 1986, as added by this section.*

20 *(c) CONFORMING AMENDMENTS.—*

21 *(1) Section 6013 is amended by striking sub-*
 22 *section (e).*

23 *(2) Subparagraph (A) of section 6230(c)(5) is*
 24 *amended by striking “section 6013(e)” and inserting*
 25 *“section 6015”.*

1 (d) *CLERICAL AMENDMENT.*—*The table of sections for*
 2 *subpart B of part II of subchapter A of chapter 61 is*
 3 *amended by inserting after the item relating to section 6014*
 4 *the following new item:*

“Sec. 6015. Innocent spouse relief; petition to Tax Court.”

5 (e) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall apply to understatements for taxable years be-*
 7 *ginning after the date of the enactment of this Act.*

8 **SEC. 322. SUSPENSION OF STATUTE OF LIMITATIONS ON**
 9 **FILING REFUND CLAIMS DURING PERIODS OF**
 10 **DISABILITY.**

11 (a) *IN GENERAL.*—*Section 6511 (relating to limita-*
 12 *tions on credit or refund) is amended by redesignating sub-*
 13 *section (h) as subsection (i) and by inserting after sub-*
 14 *section (g) the following new subsection:*

15 “(h) *RUNNING OF PERIODS OF LIMITATION SUS-*
 16 *PENDED WHILE TAXPAYER IS UNABLE TO MANAGE FINAN-*
 17 *CIAL AFFAIRS DUE TO DISABILITY.*—

18 “(1) *IN GENERAL.*—*In the case of an individual,*
 19 *the running of the periods specified in subsections (a),*
 20 *(b), and (c) shall be suspended during any period of*
 21 *such individual’s life that such individual is finan-*
 22 *cially disabled.*

23 “(2) *FINANCIALLY DISABLED.*—

1 “(A) *IN GENERAL.*—For purposes of para-
2 graph (1), an individual is financially disabled
3 if such individual is unable to manage his finan-
4 cial affairs by reason of his medically deter-
5 minable physical or mental impairment which
6 can be expected to result in death or which has
7 lasted or can be expected to last for a continuous
8 period of not less than 12 months. An individual
9 shall not be considered to have such an impair-
10 ment unless proof of the existence thereof is fur-
11 nished in such form and manner as the Sec-
12 retary may require.

13 “(B) *EXCEPTION WHERE INDIVIDUAL HAS*
14 *GUARDIAN, ETC.*—An individual shall not be
15 treated as financially disabled during any pe-
16 riod that such individual’s spouse or any other
17 person is authorized to act on behalf of such in-
18 dividual in financial matters.”

19 (b) *EFFECTIVE DATE.*—The amendment made by sub-
20 section (a) shall apply to periods of disability before, on,
21 or after the date of the enactment of this Act but shall not
22 apply to any claim for credit or refund which (without re-
23 gard to such amendment) is barred by the operation of any
24 law or rule of law (including *res judicata*) as of January
25 1, 1998.

1 ***Subtitle D—Provisions Relating to***
2 ***Interest***

3 ***SEC. 331. ELIMINATION OF INTEREST RATE DIFFERENTIAL***
4 ***ON OVERLAPPING PERIODS OF INTEREST ON***
5 ***INCOME TAX OVERPAYMENTS AND UNDER-***
6 ***PAYMENTS.***

7 (a) *IN GENERAL.*—Section 6621 (relating to deter-
8 mination of rate of interest) is amended by adding at the
9 end the following new subsection:

10 “(d) *ELIMINATION OF INTEREST ON OVERLAPPING PE-*
11 *RIODS OF INCOME TAX OVERPAYMENTS AND UNDERPAY-*
12 *MENTS.*—To the extent that, for any period, interest is pay-
13 able under subchapter A and allowable under subchapter
14 B on equivalent underpayments and overpayments by the
15 same taxpayer of tax imposed by chapters 1 and 2, the net
16 rate of interest under this section on such amounts shall
17 be zero for such period.”

18 (b) *CONFORMING AMENDMENT.*—Subsection (f) of sec-
19 tion 6601 (relating to satisfaction by credits) is amended
20 by adding at the end the following new sentence: “The pre-
21 ceding sentence shall not apply to the extent that section
22 6621(d) applies.”

23 (c) *EFFECTIVE DATE.*—The amendments made by this
24 section shall apply to interest for calendar quarters begin-
25 ning after the date of the enactment of this Act.

1 **SEC. 332. INCREASE IN OVERPAYMENT RATE PAYABLE TO**
 2 **TAXPAYERS OTHER THAN CORPORATIONS.**

3 (a) *IN GENERAL.*—Subparagraph (B) of section
 4 6621(a)(1) (defining overpayment rate) is amended to read
 5 as follows:

6 “(B) 3 percentage points (2 percentage
 7 points in the case of a corporation).”

8 (b) *EFFECTIVE DATE.*—The amendment made by this
 9 section shall apply to interest for calendar quarters begin-
 10 ning after the date of the enactment of this Act.

11 **Subtitle E—Protections for Tax-**
 12 **payers Subject to Audit or Col-**
 13 **lection Activities**

14 **SEC. 341. PRIVILEGE OF CONFIDENTIALITY EXTENDED TO**
 15 **TAXPAYER’S DEALINGS WITH NON-ATTOR-**
 16 **NEYS AUTHORIZED TO PRACTICE BEFORE IN-**
 17 **TERNAL REVENUE SERVICE.**

18 Section 7602 (relating to examination of books and
 19 witnesses) is amended by adding at the end the following
 20 new subsection:

21 “(d) *PRIVILEGE OF CONFIDENTIALITY EXTENDED TO*
 22 *TAXPAYER’S DEALINGS WITH NON-ATTORNEYS AUTHOR-*
 23 *IZED TO PRACTICE BEFORE INTERNAL REVENUE SERV-*
 24 *ICE.*—

25 “(1) *IN GENERAL.*—In any noncriminal proceed-
 26 ing before the Internal Revenue Service, the taxpayer

1 *shall be entitled to the same common law protections*
 2 *of confidentiality with respect to tax advice furnished*
 3 *by any qualified individual (in a manner consistent*
 4 *with State law for such individual's profession) as the*
 5 *taxpayer would have if such individual were an at-*
 6 *torney.*

7 “(2) *QUALIFIED INDIVIDUAL.*—*For purposes of*
 8 *paragraph (1), the term ‘qualified individual’ means*
 9 *any individual (other than an attorney) who is au-*
 10 *thorized to practice before the Internal Revenue Serv-*
 11 *ice.’”*

12 **SEC. 342. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER**
 13 **ASSISTANCE ORDERS.**

14 *Section 7811(a) (relating to taxpayer assistance or-*
 15 *ders) is amended—*

16 (1) *by striking “Upon application” and insert-*
 17 *ing the following:*

18 “(1) *IN GENERAL.*—*Upon application”,*

19 (2) *by moving the text 2 ems to the right, and*

20 (3) *by adding at the end the following new para-*
 21 *graphs:*

22 “(2) *ISSUANCE OF TAXPAYER ASSISTANCE OR-*
 23 *DER.*—*For purposes of determining whether to issue*
 24 *a taxpayer assistance order, the Taxpayer Advocate*
 25 *shall consider the following factors, among others:*

1 “(A) Whether there is an immediate threat
2 of adverse action.

3 “(B) Whether there has been an unreason-
4 able delay in resolving taxpayer account prob-
5 lems.

6 “(C) Whether the taxpayer will have to pay
7 significant costs (including fees for professional
8 representation) if relief is not granted.

9 “(D) Whether the taxpayer will suffer irrep-
10 arable injury, or a long-term adverse impact, if
11 relief is not granted.

12 “(3) STANDARD WHERE ADMINISTRATIVE GUID-
13 ANCE NOT FOLLOWED.—In cases where any Internal
14 Revenue Service employee is not following applicable
15 published administrative guidance (including the In-
16 ternal Revenue Manual), the Taxpayer Advocate shall
17 construe the factors taken into account in determining
18 whether to issue a taxpayer assistance order in the
19 manner most favorable to the taxpayer.”

20 **SEC. 343. LIMITATION ON FINANCIAL STATUS AUDIT TECH-**
21 **NIQUES.**

22 Section 7602 is amended by adding at the end the fol-
23 lowing new subsection:

24 “(e) LIMITATION ON EXAMINATION ON UNREPORTED
25 INCOME.—The Secretary shall not use financial status or

1 *economic reality examination techniques to determine the*
 2 *existence of unreported income of any taxpayer unless the*
 3 *Secretary has a reasonable indication that there is a likeli-*
 4 *hood of such unreported income.”*

5 **SEC. 344. LIMITATION ON AUTHORITY TO REQUIRE PRO-**
 6 **DUCTION OF COMPUTER SOURCE CODE.**

7 *(a) IN GENERAL.—Section 7602 is amended by adding*
 8 *at the end the following new subsection:*

9 *“(f) LIMITATION ON AUTHORITY TO REQUIRE PRO-*
 10 *DUCTION OF COMPUTER SOURCE CODE.—*

11 *“(1) IN GENERAL.—No summons may be issued*
 12 *under this title, and the Secretary may not begin any*
 13 *action under section 7604 to enforce any summons, to*
 14 *produce or examine any tax-related computer source*
 15 *code.*

16 *“(2) EXCEPTION WHERE INFORMATION NOT OTH-*
 17 *ERWISE AVAILABLE TO VERIFY CORRECTNESS OF ITEM*
 18 *ON RETURN.—Paragraph (1) shall not apply to any*
 19 *portion of a tax-related computer source code if—*

20 *“(A) the Secretary is unable to otherwise*
 21 *reasonably ascertain the correctness of any item*
 22 *on a return from—*

23 *“(i) the taxpayer’s books, papers,*
 24 *records, or other data, or*

1 “(ii) the computer software program
 2 and the associated data which, when exe-
 3 cuted, produces the output to prepare the re-
 4 turn for the period involved, and

5 “(B) the Secretary identifies with reason-
 6 able specificity such portion as to be used to ver-
 7 ify the correctness of such item.

8 *The Secretary shall be treated as meeting the require-*
 9 *ments of subparagraphs (A) and (B) after the 90th*
 10 *day after the Secretary makes a formal request to the*
 11 *taxpayer and the owner or developer of the computer*
 12 *software program for the material described in sub-*
 13 *paragraph (A)(ii) if such material is not provided be-*
 14 *fore the close of such 90th day.*

15 “(3) *OTHER EXCEPTIONS.*—*Paragraph (1) shall*
 16 *not apply to—*

17 “(A) any inquiry into any offense connected
 18 with the administration or enforcement of the in-
 19 ternal revenue laws, and

20 “(B) any tax-related computer source code
 21 developed by (or primarily for the benefit of) the
 22 taxpayer or a related person (within the mean-
 23 ing of section 267 or 707(b)) for internal use by
 24 the taxpayer or such person and not for commer-
 25 cial distribution.

1 “(4) *TAX-RELATED COMPUTER SOURCE CODE.*—

2 *For purposes of this subsection, the term ‘tax-related*
3 *computer source code’ means—*

4 “(A) *the computer source code for any com-*
5 *puter software program for accounting, tax re-*
6 *turn preparation or compliance, or tax plan-*
7 *ning, or*

8 “(B) *design and development materials re-*
9 *lated to such a software program (including pro-*
10 *gram notes and memoranda).*

11 “(5) *RIGHT TO CONTEST SUMMONS.*—*The deter-*
12 *mination of whether the requirements of subpara-*
13 *graphs (A) and (B) of paragraph (2) are met or*
14 *whether any exception under paragraph (3) applies*
15 *may be contested in any proceeding under section*
16 *7604.*

17 “(6) *PROTECTION OF TRADE SECRETS AND*
18 *OTHER CONFIDENTIAL INFORMATION.*—*In any court*
19 *proceeding to enforce a summons for any portion of*
20 *a tax-related computer source code, the court may*
21 *issue any order necessary to prevent the disclosure of*
22 *trade secrets or other confidential information with*
23 *respect to such source code, including providing that*
24 *any information be placed under seal to be opened*
25 *only as directed by the court.”*

1 (b) *APPLICATION OF SPECIAL PROCEDURES FOR*
 2 *THIRD-PARTY SUMMONSES.*—Paragraph (3) of section
 3 7609(a) (defining third-party recordkeeper) is amended by
 4 striking “and” at the end of subparagraph (H), by striking
 5 a period at the end of subparagraph (I) and inserting “,
 6 and”, and by adding at the end the following:

7 “(J) any owner or developer of a tax-related
 8 computer source code (as defined in section
 9 7602(f)(4)).

10 Subparagraph (J) shall apply only with respect to a
 11 summons requiring the production of the source code
 12 referred to in subparagraph (J) or the program and
 13 data described in section 7602(f)(2)(A)(ii) to which
 14 such source code relates.”

15 (c) *EFFECTIVE DATE.*—The amendments made by this
 16 section shall apply to summonses issued more than 90 days
 17 after the date of the enactment of this Act.

18 **SEC. 345. PROCEDURES RELATING TO EXTENSIONS OF**
 19 **STATUTE OF LIMITATIONS BY AGREEMENT.**

20 (a) *IN GENERAL.*—Paragraph (4) of section 6501(c)
 21 (relating to the period for limitations on assessment and
 22 collection) is amended—

23 (1) by striking “Where” and inserting the follow-
 24 ing:

25 “(A) *IN GENERAL.*—Where”,

1 (2) *by moving the text 2 ems to the right, and*
 2 (3) *by adding at the end the following new sub-*
 3 *paragraph:*

4 “(B) NOTICE TO TAXPAYER OF RIGHT TO
 5 REFUSE OR LIMIT EXTENSION.—The Secretary
 6 shall notify the taxpayer of the taxpayer’s right
 7 to refuse to extend the period of limitations, or
 8 to limit such extension to particular issues, on
 9 each occasion when the taxpayer is requested to
 10 provide such consent.”

11 (b) EFFECTIVE DATE.—The amendments made by this
 12 section shall apply to requests to extend the period of limita-
 13 tions made after the date of the enactment of this Act.

14 **SEC. 346. OFFERS-IN-COMPROMISE.**

15 (a) ALLOWANCES FOR BASIC LIVING EXPENSES.—
 16 Section 7122 (relating to offers-in-compromise) is amended
 17 by adding at the end the following new subsection:

18 “(c) ALLOWANCES FOR BASIC LIVING EXPENSES.—
 19 The Secretary shall develop and publish schedules of na-
 20 tional and local allowances designed to provide that tax-
 21 payers entering into a compromise have an adequate means
 22 to provide for basic living expenses.”

23 (b) PREPARATION OF STATEMENT RELATING TO OF-
 24 FERS-IN-COMPROMISE.—The Secretary of the Treasury
 25 shall prepare a statement which sets forth in simple, non-

1 *technical terms the rights of a taxpayer and the obligations*
 2 *of the Internal Revenue Service relating to offers-in-com-*
 3 *promise. Such statement shall—*

4 *(1) advise taxpayers who have entered into a*
 5 *compromise agreement of the advantages of promptly*
 6 *notifying the Internal Revenue Service of any change*
 7 *of address or marital status, and*

8 *(2) provide notice to taxpayers that in the case*
 9 *of a compromise agreement terminated due to the ac-*
 10 *tions of 1 spouse or former spouse, the Internal Reve-*
 11 *nue Service will, upon application, reinstate such*
 12 *agreement with the spouse or former spouse who re-*
 13 *mains in compliance with such agreement.*

14 **SEC. 347. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES**
 15 **FOR FILING TAX COURT PETITION.**

16 *(a) IN GENERAL.—The Secretary of the Treasury or*
 17 *the Secretary's delegate shall include on each notice of defi-*
 18 *ciency under section 6212 of the Internal Revenue Code of*
 19 *1986 the date determined by such Secretary (or delegate)*
 20 *as the last day on which the taxpayer may file a petition*
 21 *with the Tax Court.*

22 *(b) LATER FILING DEADLINES SPECIFIED ON NOTICE*
 23 *OF DEFICIENCY TO BE BINDING.—Subsection (a) of section*
 24 *6213 (relating to restrictions applicable to deficiencies; peti-*
 25 *tion to Tax Court) is amended by adding at the end the*

1 following new sentence: “Any petition filed with the Tax
 2 Court on or before the last date specified for filing such peti-
 3 tion by the Secretary in the notice of deficiency shall be
 4 treated as timely filed.”

5 (c) *EFFECTIVE DATE.*—Subsection (a) and the amend-
 6 ment made by subsection (b) shall apply to notices mailed
 7 after December 31, 1998.

8 **SEC. 348. REFUND OR CREDIT OF OVERPAYMENTS BEFORE**
 9 **FINAL DETERMINATION.**

10 (a) *TAX COURT PROCEEDINGS.*—Subsection (a) of sec-
 11 tion 6213 is amended—

12 (1) by striking “, including the Tax Court.” and
 13 inserting “, including the Tax Court, and a refund
 14 may be ordered by such court of any amount collected
 15 within the period during which the Secretary is pro-
 16 hibited from collecting by levy or through a proceed-
 17 ing in court under the provisions of this subsection.”,
 18 and

19 (2) by striking “to enjoin any action or proceed-
 20 ing” and inserting “to enjoin any action or proceed-
 21 ing or order any refund”.

22 (b) *OTHER PROCEEDINGS.*—Subsection (a) of section
 23 6512 is amended by striking the period at the end of para-
 24 graph (4) and inserting “, and”, and by inserting after
 25 paragraph (4) the following new paragraphs:

1 “(5) *As to any amount collected within the pe-*
 2 *riod during which the Secretary is prohibited from*
 3 *making the assessment or from collecting by levy or*
 4 *through a proceeding in court under the provisions of*
 5 *section 6213(a), and*

6 “(6) *As to overpayments the Secretary is author-*
 7 *ized to refund or credit pending appeal as provided*
 8 *in subsection (b).”*

9 (c) *REFUND OR CREDIT PENDING APPEAL.—Para-*
 10 *graph (1) of section 6512(b) is amended by adding at the*
 11 *end the following new sentence: “If a notice of appeal in*
 12 *respect of the decision of the Tax Court is filed under section*
 13 *7483, the Secretary is authorized to refund or credit the*
 14 *overpayment determined by the Tax Court to the extent the*
 15 *overpayment is not contested on appeal.”*

16 (d) *EFFECTIVE DATE.—The amendments made by this*
 17 *section shall take effect on the date of the enactment of this*
 18 *Act.*

19 **SEC. 349. THREAT OF AUDIT PROHIBITED TO COERCE TIP**
 20 **REPORTING ALTERNATIVE COMMITMENT**
 21 **AGREEMENTS.**

22 *The Secretary of the Treasury or the Secretary’s dele-*
 23 *gate shall instruct employees of the Internal Revenue Serv-*
 24 *ice that they may not threaten to audit any taxpayer in*

1 *an attempt to coerce the taxpayer into entering into a Tip*
 2 *Reporting Alternative Commitment Agreement.*

3 ***Subtitle F—Disclosures to***
 4 ***Taxpayers***

5 ***SEC. 351. EXPLANATION OF JOINT AND SEVERAL LIABILITY.***

6 *The Secretary of the Treasury or the Secretary’s dele-*
 7 *gate shall, as soon as practicable, but not later than 180*
 8 *days after the date of the enactment of this Act, establish*
 9 *procedures to clearly alert married taxpayers of their joint*
 10 *and several liabilities on all appropriate publications and*
 11 *instructions.*

12 ***SEC. 352. EXPLANATION OF TAXPAYERS’ RIGHTS IN INTER-***
 13 ***VIEWS WITH THE INTERNAL REVENUE SERV-***
 14 ***ICE.***

15 *The Secretary of the Treasury or the Secretary’s dele-*
 16 *gate shall, as soon as practicable, but not later than 180*
 17 *days after the date of the enactment of this Act, revise the*
 18 *statement required by section 6227 of the Omnibus Tax-*
 19 *payer Bill of Rights (Internal Revenue Service Publication*
 20 *No. 1) to more clearly inform taxpayers of their rights—*

21 *(1) to be represented at interviews with the In-*
 22 *ternal Revenue Service by any person authorized to*
 23 *practice before the Internal Revenue Service, and*

24 *(2) to suspend an interview pursuant to section*
 25 *7521(b)(2) of the Internal Revenue Code of 1986.*

1 **SEC. 353. DISCLOSURE OF CRITERIA FOR EXAMINATION SE-**
2 **LECTION.**

3 (a) *IN GENERAL.*—The Secretary of the Treasury or
4 the Secretary's delegate shall, as soon as practicable, but
5 not later than 180 days after the date of the enactment of
6 this Act, incorporate into the statement required by section
7 6227 of the Omnibus Taxpayer Bill of Rights (Internal
8 Revenue Service Publication No. 1) a statement which sets
9 forth in simple and nontechnical terms the criteria and pro-
10 cedures for selecting taxpayers for examination. Such state-
11 ment shall not include any information the disclosure of
12 which would be detrimental to law enforcement, but shall
13 specify the general procedures used by the Internal Revenue
14 Service, including whether taxpayers are selected for exam-
15 ination on the basis of information available in the media
16 or on the basis of information provided to the Internal Rev-
17 enue Service by informants.

18 (b) *TRANSMISSION TO COMMITTEES OF CONGRESS.*—
19 The Secretary shall transmit drafts of the statement re-
20 quired under subsection (a) (or proposed revisions to any
21 such statement) to the Committee on Ways and Means of
22 the House of Representatives, the Committee on Finance of
23 the Senate, and the Joint Committee on Taxation on the
24 same day.

1 **SEC. 354. EXPLANATIONS OF APPEALS AND COLLECTION**
 2 **PROCESS.**

3 *The Secretary of the Treasury or the Secretary's dele-*
 4 *gate shall, as soon as practicable but not later than 180*
 5 *days after the date of the enactment of this Act, include*
 6 *with any 1st letter of proposed deficiency which allows the*
 7 *taxpayer an opportunity for administrative review in the*
 8 *Internal Revenue Service Office of Appeals an explanation*
 9 *of the appeals process and the collection process with respect*
 10 *to such proposed deficiency.*

11 **Subtitle G—Low Income Taxpayer**
 12 **Clinics**

13 **SEC. 361. LOW INCOME TAXPAYER CLINICS.**

14 *(a) IN GENERAL.—Chapter 77 (relating to miscellane-*
 15 *ous provisions) is amended by adding at the end the follow-*
 16 *ing new section:*

17 **“SEC. 7525. LOW INCOME TAXPAYER CLINICS.**

18 *“(a) IN GENERAL.—The Secretary shall make grants*
 19 *to provide matching funds for the development, expansion,*
 20 *or continuation of qualified low income taxpayer clinics.*

21 *“(b) DEFINITIONS.—For purposes of this section—*

22 *“(1) QUALIFIED LOW INCOME TAXPAYER CLIN-*
 23 *IC.—*

24 *“(A) IN GENERAL.—The term ‘qualified low*
 25 *income taxpayer clinic’ means a clinic that—*

1 “(i) does not charge more than a nomi-
 2 nal fee for its services (except for reimburse-
 3 ment of actual costs incurred), and

4 “(ii)(I) represents low income tax-
 5 payers in controversies with the Internal
 6 Revenue Service, or

7 “(II) operates programs to inform in-
 8 dividuals for whom English is a second lan-
 9 guage about their rights and responsibilities
 10 under this title.

11 “(B) REPRESENTATION OF LOW INCOME
 12 TAXPAYERS.—A clinic meets the requirements of
 13 subparagraph (A)(ii)(I) if—

14 “(i) at least 90 percent of the tax-
 15 payers represented by the clinic have in-
 16 comes which do not exceed 250 percent of
 17 the poverty level, as determined in accord-
 18 ance with criteria established by the Direc-
 19 tor of the Office of Management and Budg-
 20 et, and

21 “(ii) the amount in controversy for
 22 any taxable year generally does not exceed
 23 the amount specified in section 7463.

24 “(2) CLINIC.—The term ‘clinic’ includes—

1 “(A) a clinical program at an accredited
2 law school in which students represent low in-
3 come taxpayers in controversies arising under
4 this title, and

5 “(B) an organization described in section
6 501(c) and exempt from tax under section 501(a)
7 which satisfies the requirements of paragraph (1)
8 through representation of taxpayers or referral of
9 taxpayers to qualified representatives.

10 “(3) *QUALIFIED REPRESENTATIVE.*—The term
11 ‘qualified representative’ means any individual
12 (whether or not an attorney) who is authorized to
13 practice before the Internal Revenue Service or the
14 applicable court.

15 “(c) *SPECIAL RULES AND LIMITATIONS.*—

16 “(1) *AGGREGATE LIMITATION.*—Unless otherwise
17 provided by specific appropriation, the Secretary
18 shall not allocate more than \$3,000,000 per year (ex-
19 clusive of costs of administering the program) to
20 grants under this section.

21 “(2) *LIMITATION ON ANNUAL GRANTS TO A CLIN-*
22 *IC.*—The aggregate amount of grants which may be
23 made under this section to a clinic for a year shall
24 not exceed \$100,000.

1 “(3) *MULTI-YEAR GRANTS.*—Upon application of
2 a qualified low income taxpayer clinic, the Secretary
3 is authorized to award a multi-year grant not to ex-
4 ceed 3 years.

5 “(4) *CRITERIA FOR AWARDS.*—In determining
6 whether to make a grant under this section, the Sec-
7 retary shall consider—

8 “(A) the numbers of taxpayers who will be
9 served by the clinic, including the number of tax-
10 payers in the geographical area for whom Eng-
11 lish is a second language,

12 “(B) the existence of other low income tax-
13 payer clinics serving the same population,

14 “(C) the quality of the program offered by
15 the low income taxpayer clinic, including the
16 qualifications of its administrators and qualified
17 representatives, and its record, if any, in provid-
18 ing service to low income taxpayers, and

19 “(D) alternative funding sources available
20 to the clinic, including amounts received from
21 other grants and contributions, and the endow-
22 ment and resources of the institution sponsoring
23 the clinic.

24 “(5) *REQUIREMENT OF MATCHING FUNDS.*—A
25 low income taxpayer clinic must provide matching

1 *funds on a dollar for dollar basis for all grants pro-*
 2 *vided under this section. Matching funds may in-*
 3 *clude—*

4 *“(A) the salary (including fringe benefits)*
 5 *of individuals performing services for the clinic,*
 6 *and*

7 *“(B) the cost of equipment used in the clin-*
 8 *ic.*

9 *Indirect expenses, including general overhead of the*
 10 *institution sponsoring the clinic, shall not be counted*
 11 *as matching funds.”*

12 *(b) CLERICAL AMENDMENT.—The table of sections for*
 13 *chapter 77 is amended by adding at the end the following*
 14 *new section:*

“Sec. 7525. Low income taxpayer clinics.”

15 *(c) EFFECTIVE DATE.—The amendments made by this*
 16 *section shall take effect on the date of the enactment of this*
 17 *Act.*

18 ***Subtitle H—Other Matters***

19 ***SEC. 371. ACTIONS FOR REFUND WITH RESPECT TO CER-*** 20 ***TAIN ESTATES WHICH HAVE ELECTED THE IN-*** 21 ***STALLMENT METHOD OF PAYMENT.***

22 *(a) IN GENERAL.—Section 7422 is amended by redes-*
 23 *ignating subsection (j) as subsection (k) and by inserting*
 24 *after subsection (i) the following new subsection:*

1 “(j) *SPECIAL RULE FOR ACTIONS WITH RESPECT TO*
 2 *ESTATES FOR WHICH AN ELECTION UNDER SECTION 6166*
 3 *IS MADE.*—

4 “(1) *IN GENERAL.*—*The district courts of the*
 5 *United States and the United States Court of Federal*
 6 *Claims shall have jurisdiction over any action*
 7 *brought by the representative of an estate to which*
 8 *this subsection applies to determine the correct*
 9 *amount of the estate tax liability of such estate (or for*
 10 *any refund with respect thereto) even if the full*
 11 *amount of such liability has not been paid.*

12 “(2) *ESTATES TO WHICH SUBSECTION AP-*
 13 *PLIES.*—*This subsection shall apply to any estate if,*
 14 *as of the date the action is filed—*

15 “(A) *an election under section 6166 is in ef-*
 16 *fect with respect to such estate,*

17 “(B) *no portion of the installments payable*
 18 *under such section have been accelerated, and*

19 “(C) *all installments the due date for which*
 20 *is on or before the date the action is filed have*
 21 *been paid.*

22 “(3) *PROHIBITION ON COLLECTION OF DIS-*
 23 *ALLOWED LIABILITY.*—*If the court redetermines under*
 24 *paragraph (1) the estate tax liability of an estate, no*
 25 *part of such liability which is disallowed by a deci-*

1 *sion of such court which has become final may be col-*
 2 *lected by the Secretary, and amounts paid in excess*
 3 *of the installments determined by the court as cur-*
 4 *rently due and payable shall be refunded.”*

5 *(b) EXTENSION OF TIME TO FILE REFUND SUIT.—*
 6 *Section 7479 (relating to declaratory judgments relating to*
 7 *eligibility of estate with respect to installment payments*
 8 *under section 6166) is amended by adding at the end the*
 9 *following new subsection:*

10 *“(c) EXTENSION OF TIME TO FILE REFUND SUIT.—*
 11 *The 2-year period in section 6532(a)(1) for filing suit for*
 12 *refund after disallowance of a claim shall be suspended dur-*
 13 *ing the 90-day period after the mailing of the notice referred*
 14 *to in subsection (b)(3) and, if a pleading has been filed with*
 15 *the Tax Court under this section, until the decision of the*
 16 *Tax Court has become final.”*

17 *(c) EFFECTIVE DATE.—The amendments made by this*
 18 *section shall apply to any claim for refund filed after the*
 19 *date of the enactment of this Act.*

20 **SEC. 372. CATALOGING COMPLAINTS.**

21 *In collecting data for the report required under section*
 22 *1211 of Taxpayer Bill of Rights 2 (Public Law 104–168),*
 23 *the Secretary of the Treasury or the Secretary’s delegate*
 24 *shall maintain records of taxpayer complaints of mis-*

1 *conduct by Internal Revenue Service employees on an indi-*
 2 *vidual employee basis.*

3 **SEC. 373. ARCHIVE OF RECORDS OF INTERNAL REVENUE**
 4 **SERVICE.**

5 *(a) IN GENERAL.—Subsection (l) of section 6103 (re-*
 6 *lating to confidentiality and disclosure of returns and re-*
 7 *turn information) is amended by adding at the end the fol-*
 8 *lowing new paragraph:*

9 *“(17) DISCLOSURE TO NATIONAL ARCHIVES AND*
 10 *RECORDS ADMINISTRATION.—The Secretary shall,*
 11 *upon written request from the Archivist of the United*
 12 *States, disclose or authorize the disclosure of returns*
 13 *and return information to officers and employees of*
 14 *the National Archives and Records Administration*
 15 *for purposes of, and only to the extent necessary in,*
 16 *the appraisal of records for destruction or retention.*
 17 *No such officer or employee shall, except to the extent*
 18 *authorized by subsections (f), (i)(7), or (p), disclose*
 19 *any return or return information disclosed under the*
 20 *preceding sentence to any person other than to the*
 21 *Secretary, or to another officer or employee of the Na-*
 22 *tional Archives and Records Administration whose of-*
 23 *ficial duties require such disclosure for purposes of*
 24 *such appraisal.”*

1 (b) *CONFORMING AMENDMENTS.*—Section 6103(p) is
 2 *amended—*

3 (1) *in paragraph (3)(A), by striking “or (16)”*
 4 *and inserting “(16), or (17)”*,

5 (2) *in paragraph (4), by striking “or (14)” and*
 6 *inserting “, (14), or (17)” in the matter preceding*
 7 *subparagraph (A), and*

8 (3) *in paragraph (4)(F)(ii), by striking “or*
 9 *(15)” and inserting “, (15), or (17)”*.

10 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 11 *section shall apply to requests made by the Archivist of the*
 12 *United States after the date of the enactment of this Act.*

13 **SEC. 374. PAYMENT OF TAXES.**

14 *The Secretary of the Treasury or the Secretary’s dele-*
 15 *gate shall establish such rules, regulations, and procedures*
 16 *as are necessary to allow payment of taxes by check or*
 17 *money order made payable to the United States Treasury.*

18 **SEC. 375. CLARIFICATION OF AUTHORITY OF SECRETARY**

19 **RELATING TO THE MAKING OF ELECTIONS.**

20 *Subsection (d) of section 7805 is amended by striking*
 21 *“by regulations or forms”.*

1 **SEC. 376. LIMITATION ON PENALTY ON INDIVIDUAL'S FAIL-**
 2 **URE TO PAY FOR MONTHS DURING PERIOD**
 3 **OF INSTALLMENT AGREEMENT.**

4 (a) *IN GENERAL.*—Section 6651 (relating to failure to
 5 file tax return or to pay tax) is amended by adding at the
 6 end the following new subsection:

7 “(h) *LIMITATION ON PENALTY ON INDIVIDUAL’S FAIL-*
 8 *URE TO PAY FOR MONTHS DURING PERIOD OF INSTALL-*
 9 *MENT AGREEMENT.*—No addition to the tax shall be im-
 10 posed under paragraph (2) or (3) of subsection (a) with
 11 respect to the tax liability of an individual for any month
 12 during which an installment agreement under section 6159
 13 is in effect for the payment of such tax to the extent that
 14 imposing an addition to the tax under such paragraph for
 15 such month would result in the aggregate number of per-
 16 centage points of such addition to the tax exceeding 9.5.”

17 (b) *EFFECTIVE DATE.*—The amendment made by this
 18 section shall apply for purposes of determining additions
 19 to the tax for months beginning after the date of the enact-
 20 ment of this Act.

21 ***Subtitle I—Studies***

22 **SEC. 381. PENALTY ADMINISTRATION.**

23 *The Joint Committee on Taxation shall conduct a*
 24 *study—*

25 (1) *reviewing the administration and implemen-*
 26 *tation by the Internal Revenue Service of the penalty*

1 *reform provisions of the Omnibus Budget Reconcili-*
2 *ation Act of 1989, and*

3 *(2) making any legislative and administrative*
4 *recommendations it deems appropriate to simplify*
5 *penalty administration and reduce taxpayer burden.*

6 *Such study shall be submitted to the Committee on Ways*
7 *and Means of the House of Representatives and the Commit-*
8 *tee on Finance of the Senate not later than 9 months after*
9 *the date of enactment of this Act.*

10 **SEC. 382. CONFIDENTIALITY OF TAX RETURN INFORMA-**
11 **TION.**

12 *The Joint Committee on Taxation shall conduct a*
13 *study of the scope and use of provisions regarding taxpayer*
14 *confidentiality, and shall report the findings of such study,*
15 *together with such recommendations as it deems appro-*
16 *priate, to the Congress not later than one year after the*
17 *date of the enactment of this Act. Such study shall examine*
18 *the present protections for taxpayer privacy, the need for*
19 *third parties to use tax return information, and the ability*
20 *to achieve greater levels of voluntary compliance by allow-*
21 *ing the public to know who is legally required to file tax*
22 *returns, but does not file tax returns.*

1 **TITLE IV—CONGRESSIONAL AC-**
 2 **COUNTABILITY FOR THE IN-**
 3 **TERNAL REVENUE SERVICE**

4 ***Subtitle A—Oversight***

5 **SEC. 401. EXPANSION OF DUTIES OF THE JOINT COMMIT-**
 6 **TEE ON TAXATION.**

7 *(a) IN GENERAL.—Section 8021 (relating to the pow-*
 8 *ers of the Joint Committee on Taxation) is amended by*
 9 *adding at the end the following new subsections:*

10 *“(e) INVESTIGATIONS.—The Joint Committee shall re-*
 11 *view all requests (other than requests by the chairman or*
 12 *ranking member of a Committee or Subcommittee) for in-*
 13 *vestigations of the Internal Revenue Service by the General*
 14 *Accounting Office, and approve such requests when appro-*
 15 *priate, with a view towards eliminating overlapping inves-*
 16 *tigations, ensuring that the General Accounting Office has*
 17 *the capacity to handle the investigation, and ensuring that*
 18 *investigations focus on areas of primary importance to tax*
 19 *administration.*

20 *“(f) RELATING TO JOINT HEARINGS.—*

21 *“(1) IN GENERAL.—The Chief of Staff, and such*
 22 *other staff as are appointed pursuant to section 8004,*
 23 *shall provide such assistance as is required for joint*
 24 *hearings described in paragraph (2).*

1 “(2) *JOINT HEARINGS.*—On or before April 1 of
2 each calendar year after 1997, there shall be a joint
3 hearing of two members of the majority and one
4 member of the minority from each of the Committees
5 on Finance, Appropriations, and Government Affairs
6 of the Senate, and the Committees on Ways and
7 Means, Appropriations, and Government Reform and
8 Oversight of the House of Representatives, to review
9 the strategic plans and budget for the Internal Reve-
10 nue Service. After the conclusion of the annual filing
11 season, there shall be a second annual joint hearing
12 to review the other matters outlined in section
13 8022(3)(C).”

14 **(b) *EFFECTIVE DATES.***—

15 (1) Subsection (e) of section 8021 of the Internal
16 Revenue Code of 1986, as added by subsection (a) of
17 this section, shall apply to requests made after the
18 date of enactment of this Act.

19 (2) Subsection (f) of section 8021 of the Internal
20 Revenue Code of 1986, as added by subsection (a) of
21 this section, shall take effect on the date of the enact-
22 ment of this Act.

1 **SEC. 402. COORDINATED OVERSIGHT REPORTS.**

2 (a) *IN GENERAL.*—Paragraph (3) of section 8022 (re-
3 *lating to the duties of the Joint Committee on Taxation*)
4 *is amended to read as follows:*

5 “(3) *REPORTS.*—

6 “(A) *To report, from time to time, to the*
7 *Committee on Finance and the Committee on*
8 *Ways and Means, and, in its discretion, to the*
9 *Senate or House of Representatives, or both, the*
10 *results of its investigations, together with such*
11 *recommendations as it may deem advisable.*

12 “(B) *To report, annually, to the Committee*
13 *on Finance and the Committee on Ways and*
14 *Means on the overall state of the Federal tax sys-*
15 *tem, together with recommendations with respect*
16 *to possible simplification proposals and other*
17 *matters relating to the administration of the*
18 *Federal tax system as it may deem advisable.*

19 “(C) *To report, annually, to the Committees*
20 *on Finance, Appropriations, and Government*
21 *Affairs of the Senate, and to the Committees on*
22 *Ways and Means, Appropriations, and Govern-*
23 *ment Reform and Oversight of the House of Rep-*
24 *resentatives, with respect to—*

25 “(i) *strategic and business plans for*
26 *the Internal Revenue Service;*

1 “(ii) progress of the Internal Revenue
2 Service in meeting its objectives;

3 “(iii) the budget for the Internal Reve-
4 nue Service and whether it supports its ob-
5 jectives;

6 “(iv) progress of the Internal Revenue
7 Service in improving taxpayer service and
8 compliance;

9 “(v) progress of the Internal Revenue
10 Service on technology modernization; and

11 “(vi) the annual filing season.”

12 (b) *EFFECTIVE DATE.*—The amendment made by this
13 section shall take effect on the date of the enactment of this
14 Act.

15 ***Subtitle B—Budget***

16 ***SEC. 411. FUNDING FOR CENTURY DATE CHANGE.***

17 *It is the sense of Congress that the Internal Revenue*
18 *Service efforts to resolve the century date change computing*
19 *problems should be funded fully to provide for certain reso-*
20 *lution of such problems.*

21 ***SEC. 412. FINANCIAL MANAGEMENT ADVISORY GROUP.***

22 *The Commissioner shall convene a financial manage-*
23 *ment advisory group consisting of individuals with exper-*
24 *tise in governmental accounting and auditing from both the*

1 *private sector and the Government to advise the Commis-*
 2 *sioner on financial management issues, including—*

3 *(1) the continued partnership between the Inter-*
 4 *nal Revenue Service and the General Accounting Of-*
 5 *fice;*

6 *(2) the financial accounting aspects of the Inter-*
 7 *nal Revenue Service's system modernization;*

8 *(3) the necessity and utility of year-round audit-*
 9 *ing; and*

10 *(4) the Commissioner's plans for improving its*
 11 *financial management system.*

12 ***Subtitle C—Tax Law Complexity***

13 ***SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.***

14 *It is the sense of Congress that the Internal Revenue*
 15 *Service should provide the Congress with an independent*
 16 *view of tax administration, and that during the legislative*
 17 *process, the tax writing committees of the Congress should*
 18 *hear from front-line technical experts at the Internal Reve-*
 19 *nue Service with respect to the administrability of pending*
 20 *amendments to the Internal Revenue Code of 1986.*

21 ***SEC. 422. TAX COMPLEXITY ANALYSIS.***

22 *(a) IN GENERAL.—Chapter 92 (relating to powers and*
 23 *duties of the Joint Committee on Taxation) is amended by*
 24 *adding at the end the following new section:*

1 **“SEC. 8024. TAX COMPLEXITY ANALYSIS.**

2 “(a) *IN GENERAL.—If—*

3 “(1) *legislation is reported by the Committee on*
 4 *Finance of the Senate, the Committee on Ways and*
 5 *Means of the House of Representatives, or any com-*
 6 *mittee of conference, and*

7 “(2) *such legislation includes any provision*
 8 *amending the Internal Revenue Code of 1986,*
 9 *the report or statement accompanying such legislation shall*
 10 *contain a Tax Complexity Analysis prepared by the staff*
 11 *of the Joint Committee on Taxation.*

12 “(b) *CONTENT OF COMPLEXITY ANALYSIS.—Each Tax*
 13 *Complexity Analysis shall identify the provisions, if any,*
 14 *adding significant complexity or providing significant sim-*
 15 *plification, as determined by the staff of the Joint Commit-*
 16 *tee on Taxation, and shall include the basis for such deter-*
 17 *mination.*

18 “(c) *LEGISLATION SUBJECT TO POINT OF ORDER.—*
 19 *It shall not be in order in the Senate or the House of Rep-*
 20 *resentatives to consider any legislation described in sub-*
 21 *section (a) required to be accompanied by a Tax Complexity*
 22 *Analysis that does not contain a Tax Complexity Analysis.*

23 “(d) *RESPONSIBILITIES OF THE COMMISSIONER.—The*
 24 *Commissioner shall provide the Joint Committee on Tax-*
 25 *ation with such information as is necessary to prepare Tax*
 26 *Complexity Analyses.”*

1 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 2 *chapter 92 is amended by adding at the end the following*
 3 *new item:*

“Sec. 8024. Tax complexity analysis.”

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 5 *section shall apply to legislation considered on or after Jan-*
 6 *uary 1, 1998.*

7 ***TITLE V—CLARIFICATION OF DE-***
 8 ***DUCTION FOR DEFERRED***
 9 ***COMPENSATION***

10 ***SEC. 501. CLARIFICATION OF DEDUCTION FOR DEFERRED***
 11 ***COMPENSATION.***

12 (a) *IN GENERAL.*—*Subsection (a) of section 404 is*
 13 *amended by adding at the end the following new paragraph:*

14 *“(11) DETERMINATIONS RELATING TO DEFERRED*
 15 *COMPENSATION.—*

16 *“(A) IN GENERAL.—For purposes of deter-*
 17 *mining under this section—*

18 *“(i) whether compensation of an em-*
 19 *ployee is deferred compensation, and*

20 *“(ii) when deferred compensation is*
 21 *paid,*

22 *no amount shall be treated as received by the em-*
 23 *ployee, or paid, until it is actually received by*
 24 *the employee.*

1 “(B) *EXCEPTION.*—Subparagraph (A) shall
2 *not apply to severance pay.*”

3 (b) *SICK LEAVE PAY TREATED LIKE VACATION PAY.*—
4 *Paragraph (5) of section 404(a) is amended by inserting*
5 *“or sick leave pay” after “vacation pay”.*

6 (c) *EFFECTIVE DATE.*—

7 (1) *IN GENERAL.*—*The amendments made by*
8 *this section shall apply to taxable years ending after*
9 *October 8, 1997.*

10 (2) *CHANGE IN METHOD OF ACCOUNTING.*—*In*
11 *the case of any taxpayer required by this section to*
12 *change its method of accounting for its first taxable*
13 *year ending after October 8, 1997—*

14 (A) *such change shall be treated as initiated*
15 *by the taxpayer,*

16 (B) *such change shall be treated as made*
17 *with the consent of the Secretary of the Treasury,*
18 *and*

19 (C) *the net amount of the adjustments re-*
20 *quired to be taken into account by the taxpayer*
21 *under section 481 of the Internal Revenue Code*
22 *of 1986 shall be taken into account in such first*
23 *taxable year.*